



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2614 OF 2023**

Prathamesh Pravin Khetle
versus
The State of Maharashtra

... Applicant
... Respondent

Mr Hemant Ingle with Mr. Tushar Khandare, Mr. Vedang Deshpande, Mr. Prashant Goyal, Ms. Jasmeet Kaur for Applicant.
Mrs. Geeta P. Mulekar, APP for State.
PSI B.S.Nikumbh, Wagle Estate Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 27 FEBRUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.219 of 2022 registered with Wagle Estate Police Station for the offences punishable under Sections 307, 326, 324, 323, 504, 506, 141, 143, 149 of the Indian Penal Code and Sections 4 read with 25 of the Arms Act, 1959.
3. The first informant lodged a report with the allegation that on 19 September 2022 in between 1.00 a.m. to 1.15 a.m., while and his friends, including injured Vikram, were standing in front of Vishwakarma and Co., co-accused Chinmay Shinde, Prasad Palande, Gaurav Shinde and others unknown persons charged on them. Co-accused Chinmay stabbed the injured Vikram. Co-accused Prasad gave a blow by means of a sharp weapon on the stomach of Vikram. When the first informant

went to his rescue, co-accused Prasad inflicted a blow by means of a sharp weapon. The first informant further alleged that the unknown associates of the assailants, Chinmay and Prasad assaulted other witnesses namely Sanjay and Sunil and friend of Baba, by means of bamboo sticks, fist and kick blows. In the supplementary statement recorded on 4 October 2022, the applicant was named as one of those unknown persons who had assaulted the first informant, injured and witnesses by means of fist and kick blows and bamboo sticks.

4. Learned Counsel for the Applicant submitted that the co-accused Bharat Rajesh Wishwakarma and Poornima Devji Chalke to whom identical role was attributed have been released on bail by the Court of Session. The applicant is similarly circumstanced and, therefore, the applicant deserves to be enlarged on bail.

5. Learned APP fairly submitted that the principle of parity may apply, however, for about four months of the occurrence, the Applicant had made himself scarce. Therefore, the applicant does not deserve to be released on bail.

6. Prima facie, it appears that in the FIR, the applicant was not named as one of the associates of the assailants. In the supplementary statement, the role attributed to the applicant is that of assaulting the first informant, injured and others by means of fist and kick blows and bamboo stick. Evidently, the role attributed to the co-accused Bharat Vishwakarma appears to be identical. In any event, the applicant was not the person who was armed with a deadly weapon and gave blows by means of

deadly weapon.

7. In the circumstances of the case, whether the applicant can be roped in by invoking the principle of constructive criminality for the offence punishable under Section 307 of the Code, appears debatable. The applicant has been in custody since 16 January 2023. The Court is also informed that the applicant has no antecedents. I am, therefore, inclined to exercise the discretion in favour of the Applicant.

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Prathamesh Pravin Khetle be released on bail in C.R.No.219 of 2022 registered with Wagle Estate Police Station, Thane on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at Wagle Estate Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of two years or till the conclusion of the trial whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)