

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3107 OF 2023

**VISHAL
SUBHASH
PAREKAR**

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Date: 2024.04.12
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Stalin Charles Kounder

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Dheeraj Panchange, (advocate appointed through legal aid), for the Applicant.

Mr. Prashant Jadhav, APP, for the Respondent/State.

Mr. Machhindra Jadhav, PI, ACB, Mumbai.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 10, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. This is an application through jail.
3. The applicant who is arraigned in Session Case No. 26 of 2019 arising out of C. R. No. 460 of 2018 registered with Dindoshi police station for the offences punishable under section 307 read with 34 of Indian Penal Code, 1860 and section 135 read with 37(1)(a) of Maharashtra Police Act, 1951 seeks to be enlarged on bail.
4. On 4th September, 2018 the applicant and co-accused Mohd. Joruddin Hussain @ Bada, his brother Ajju and Roshan Kharat @ Padya had accosted the first informant Abdul Ansari. They mounted assault on the first informant exhorting that they will not spare him as he considered himself to be the Don (Bhai) of the said locality. The co-accused Joruddin gave blow by means of chopper on

the head of the first informant. Thereupon, the applicant attempted to gave blow by means of chopper which the first informant tried to fend off and thereby sustained injury on his left wrist. When the first informant tried to run away, Roshan Kharat gave blow on the back of the first informant by means of chopper. The co-accused Ajju assaulted him by means of first and kick blows. As people gathered, the applicant and the co-accused fled away.

5. Mr. Panchange, the learned counsel, who is appointed to espouse the cause of the applicant, submitted that the co-accused Roshan has been released on bail. The applicant has been in custody since 7th September, 2018. It is unlikely that the trial can be concluded within a reasonable period.

6. Mr. Jadhav, learned APP, resisted the prayer for bail. It was submitted that the applicant was named as one of the assailants. The applicant is a history-sheeter. More than 14 cases have been registered against the applicant. Therefore, the applicant may not be released on bail.

7. I have perused the injury certificate of the first informant. It appears that the first informant had sustained three CLWs; first over right parietal region, second over left scapular region and, the third over left wrist. Prima facie, it appears that the first injury is attributable to the assault mounted by accused Joruddin Hussain,

second to the co-accused Roshan Kharat and third to the applicant.

8. From the perusal of the report of the investigating officer, it appears that as many as 24 cases are registered against the first informant. The learned APP submitted that the genesis of the occurrence is in the gangwar between the informant and accused.

9. In any event, the applicant has been in custody for more than five years. The co-accused Roshan Kharat has been released on bail. As the first informant has sustained injury, the alternate punishment may extend to 10 years. Since the applicant has already undergone more than half of the alternate punishment and it is unlikely that the trial can be concluded within a reasonable period, I am persuaded to exercise discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Stalin Charles Kounder be released on bail in C. R. No. 460 of 2018 registered with Dindoshi police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant shall mark his presence at Dindoshi police station on the first Monday of every month between 11 am to 1 pm for a

period of three years or till the conclusion of the trial, whichever is earlier.

4] Except for the purpose of attending police station, the applicant shall not enter the limits of Dindoshi police station till conclusion of the trial.

5] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

6] 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.

7] The applicant shall regularly attend the proceedings before the jurisdictional Court.

8] 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.)