

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.3969 OF 2023

Shekhar Subhash Shinde

..... Applicant

versus

The State of Maharashtra and Anr.

... Respondents

NIKITA
KAILAS
DARADE

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Mr. Salman Pathan a/w Anshuman R. Asare a/w Sanket Salunkhe
a/w N. Pathan for the Applicant.

Ms. Mahalakshmi Ganapathy, APP for the State/Respondent.

Mr. Swapnil C. Jadhav Dy.Sp. Daund, Pune (I.O.) is present.

CORAM : SARANG V. KOTWAL, J.

DATE : 17th JANUARY 2024

P.C. :

1. The Applicant is seeking bail in connection with C.R. No.296 of 2019, registered at Yawat Police Station, Pune under Sections 392, 395, 363, 365, 347, 341 read with 34 of the IPC and under Sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999.
2. Heard Mr. Salman Pathan, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, APP for the State.

3. The prosecution case is that on 26th March 2019, the first informant Ramprasad Rathod was driving a truck within the jurisdiction of the Yawat Police Station at around 9.30 P.M.. He was carrying 31 tonnes of wheat from Rajasthan to Goa. There was another driver Nandlal Thakur with him. The truck was intercepted by a Wagon R car and three unknown persons climbed in the truck. The mobile phones of the drivers were taken by them. They were taken at some distance and then they were asked to get down. The truck was taken to District Solapur. The wheat was sold to two shop owners. Subsequently, the Applicant and others were arrested. The Applicant was arrested on 1st April 2019, and since then, he is in custody. During the investigation, provisions of the Maharashtra Control of Organized Crime Act, 1999 were applied. The investigation was completed and the charge-sheet was filed.
4. The Applicant had earlier preferred the Criminal Bail Application No.911 of 2020. It was allowed to be withdrawn unconditionally by this Court vide the order dated 18th February 2021. After that, some of the co-accused were released on bail

by the honourable Supreme Court and by different benches of this Court. Therefore, the Applicant has preferred this application on the ground of delay in trial and also on parity.

5. Learned counsel for the Applicant submitted that the following circumstances are against him.

- i) He was identified in a Test Identification Parade;
- ii) He received money in his account after selling that wheat, and;
- iii) confessional statement of co-accused mentioning his role.

6. He submitted that, though the Applicant was identified in the parade by both the drivers; even Sachin Gajage was identified, Sachin Gajage was granted bail by the Honourable Supreme Court. The co-accused Sagar Chavan was also identified in the parade. He is also on bail. Therefore, parity applies to the present Applicant.

7. Learned APP, submitted that all these circumstance are not exactly similar to those against the other co-accused. The receipt of large amount in the Applicant's account after sale of the

wheat is an additional circumstance which is only against the present Applicant. On that ground she opposed the grant of bail in this case. However, she could not make a statement as to when the examination of witnesses would actually commence.

8. I have considered these submissions. The Applicant is in custody since 1st April 2019. Almost four years and nine months are passed. Honourable Supreme Court had released the co-accused Sachin Gajage on bail, who had played similar role in the offence. He was in custody for about three and a half years. The role of the Applicant and the said co-accused Sachin Gajage is similar, except that the Applicant has received money. But the fact remains that the Applicant has spent more time in jail than Sachin who is granted bail. Apart from that, the other co-accused Sagar Chavan and Mangesh Chavan, who have played major roles were also granted bail. The trial is not likely to commence and conclude soon. Therefore, taking into account all these facts, the Applicant deserves to be released on bail on similar conditions as imposed by the Honourable Supreme Court on the co-accused Sachin Gajage.

9. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R. No.296 of 2019 registered at Yawat Police Station, Pune, on his execution P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The Applicant shall not enter the districts Solapur, Satara, Sangli, Pune, and Ahmednagar, unless he is required to attend any trial.
- (iii) He shall intimate his address, where he will be residing to the Investigation Officer as well as to the Police Station of the area within which he would reside, and report to the said Police Station in the first week of every month.
- (iv) The Bail Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)