



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

BAIL APPLICATION NO.4242 OF 2023

SHAIKH NADEEM SHAIKH SALIM

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Nikhil G.Hire a/w Mr. Soham Powar, for the applicant.
Mr. S.V. Walve, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 4, 2024.

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 395, 341 of the Indian Penal Code read with Sections 4 read with 25 of the Arms Act, registered on 5/7/2023 vide C.R. No.430/2023 with Taluka Police Station, Malegaon.
- 3.** The applicant is seeking parity with co-accused-Mohammad Sufiyan Mohammad Rizwan who was enlarged on bail by order of this Court dated 20/12/2023 in Bail

Application No. 4046 of 2023 which is at page 147 of the paperbook. The said order reads thus:

“2. This is an application for bail in respect of the offence punishable under Sections 395, 341 of the Indian Penal Code (hereafter ‘IPC’ for short) read with Sections 4 read with 25 of the Arms Act, registered on 5/7/2023 vide C.R. No.430/2023 with Taluka Police Station, Malegaon.

3. The applicant was arrested on 5/7/2023. There are in all five accused who were riding on two motorcycles. One of the accused snatched the mobile handset of the informant while the informant was travelling on his motorcycle. One of the accused was brandishing a sword. The accused tried to escape but the present applicant and one more accused were nabbed by the crowd. The present applicant has sustained some injuries as he fell down from the motorcycle at a speed-breaker. The mobile phone of the informant was recovered from the present applicant.

4. Learned APP opposed the application for bail and submitted that one of the accused had a sword with him. It is further submitted that the mobile handset was recovered from the custody of the applicant. It is submitted that since the co-accused is absconding, the applicant should not be enlarged on bail.

5. In the present case, so far as the applicant is concerned, the investigation is complete and the charge-sheet is filed. The applicant was arrested on 5/7/2023 and now is in custody for more than five months with no possibility of the trial concluding any time soon. From the order of the trial Court, it appears that there are no criminal antecedents reported against the applicant. The applicant can be enlarged on bail by imposing conditions.”

4. So far as the applicant is concerned, the applicant was the motorcycle rider. The applicant’s role is lesser than the

co-accused who has been enlarged on bail. Though learned APP opposed the application, I am inclined to enlarge the applicant on the ground of parity. Hence, the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant- Shaikh Nadeem Shaikh Salim in connection with C.R. No.430/2023 registered with Taluka Police Station, Malegaon, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Taluka police station, Malegaon, once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till further orders of the trial Court.
- (d) 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. The applicant shall not tamper with evidence.
- (e) 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.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) The applicant shall surrender his passport, if any, to the investigating officer.

5. The application is disposed of.

(M. S. KARNIK, J.)