

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

CRIMINAL BAIL APPLICATION NO.311 OF 2024

Rupesh Hemant Luniya ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Priyal G. Sarda a/w Mr. Sharad Bhoite i/b Mr. Kishan
Chaudhari for the Applicant

Ms. Ashvini A. Takalkar, A.P.P for the Respondent-State

PSI Mr. E. B. Patil, Pairavi Officer from Pune Rural Police
Station, is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 26th NOVEMBER 2024

P.C :

1 Heard learned counsel for the parties.

2 This is the second bail application preferred by the
applicant seeking his enlargement on bail in connection with C.R.
No. 514/2016 registered with the Shirur Police Station, Pune, for
the alleged offences punishable under Sections 302, 120B, 109,
143, 147, 148, 149 of the Indian Penal Code ('IPC').

3 Learned counsel for the applicant submits that the applicant is in custody for more than six years and till date, charge has not been framed in the said case. He submits that the role of the applicant is similar to that of Pravin Kale, who has been released on bail by the trial Court. He submits that the applicant is not the assailant but is alleged to have driven the motorcycle on which the assailant was sitting.

4 Learned A.P.P opposes the application. She submits that whilst on Covid bail, the applicant committed another offence of 307 of the IPC. When questioned, she states that the applicant has not been arrested in the said C.R till date.

5 Perused the papers. The applicant's first bail application was dismissed as withdrawn, since the Court was not inclined to enlarge the applicant on bail. The same is recorded in the order dated 11th February 2021 passed in Criminal Bail

Application No. 2325/2019. There are four eye-witnesses to the incident in question. It appears that role of Pravin kale who has been enlarged on bail, is similar to that of the applicant i.e of riding the motorcycle on which the assailants were sitting. According to the prosecution, the persons sitting pillion on the applicant and Pravin Kale's motorcycles assaulted the deceased with sickle.

6 No doubt, the offence is serious and *prima facie*, the complicity of the applicant is seen. However, as noted above, the applicant is not the assailant. Even otherwise, the applicant is in custody for more than 6 years and till date, no charge has been framed in the said case. It appears that the prosecution intends to examine 16 witnesses. As far as the C.R which is registered whilst the applicant was on Covid bail, it appears that the applicant has not been arrested in the said C.R, for the reasons best known to the police.

7 At this stage, learned counsel for the applicant states that the applicant will not stay in Shirur, till the conclusion of the trial, since there are four eye-witnesses in the said case. Statement accepted. Learned counsel for the applicant is ready to file an undertaking of the applicant, to that effect. The said statements are made on the instructions of the applicant.

8 As noted above, the applicant is in custody for more than 6 years and till date, charge has not been framed. The right to speedy trial is a right of an accused. Since till date, charge has not been framed, having regard to the role of the applicant and parity with co-accused-Pravin Kale, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two local solvent sureties in the like amount;

(ii) The applicant shall stay outside the jurisdiction of Shirur Police Station, Pune, till the conclusion of the trial, except for the purpose of attending the trial Court;

(iii) The applicant shall attend the nearest Police Station (where he intends to reside), on the first Saturday of every month between 10:00 a.m to 12:00 noon, till the conclusion of the trial;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the Police Station or if the applicant fails to appear before the trial Court, or there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is disposed of in the aforesaid terms.

10 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own

merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.