

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.359 OF 2024

Hritik Baban Pawar ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Viresh Purwant i/b. Mr. Rushikesh Kale for Applicant.

Mr. Prasanna Malshe, APP for Respondent-State.

Mr. Nisarali Kazi, Head Constable, ACP Naupada Office, Thane.

CORAM : MANISH PITALE, J.
DATE : JUNE 24, 2024

P.C. :

. Heard Mr. Purwant, learned counsel appearing for the applicant and Mr. Malshe, learned APP appearing for the respondent-State.

2. The applicant is one of the co-accused persons concerning FIR No.0281 of 2022 dated 15.12.2022 registered at Shreenagar Police Station, District - Thane, concerning offences under Sections 341, 385, 387, 506(2) read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. There are three accused persons and the other two accused persons are the brothers of the applicant. The applicant was arrested on 16.12.2022 and since then he has remained behind bars. Charge-sheet has been filed in the present case and charges are yet to be framed.

4. The learned counsel for the applicant invited attention of this Court to the statement of the informant leading to registration of the FIR. He submits that the informant has referred to alleged earlier incidents leading to non-cognizable offences being registered. Thereafter, reference is made to an alleged incident of 16.09.2022, wherein names

of all the three accused persons have been taken and it is alleged that they had threatened the informant and demanded sum of Rs.10,000/-. The informant has also referred to an alleged incident of 15.12.2022, wherein specific allegation is made against only the co-accused Aniket Pawar. It is stated that he was armed with a sword and he threatened the informant that if the informant lodged complaints with the police, he would be dealt with and that if the informant desired and continued to stay in the place where he was staying, he would have to pay sum of Rs.10,000/-. The information was given to the police on 15.12.2022 and hence, the subject FIR was registered.

5. It is submitted on behalf of the applicant that even a bare reading of the aforesaid statement would show that for the incident in question, only the co-accused Aniket Pawar has been named and all actions have been attributed to him. As regards the earlier incident of 16.09.2022, in the statement itself, the informant has stated that he had approached the police. On this basis, it is submitted that no role can be attributed to the applicant and hence a strong *prima facie* case is made out. It is further brought to the notice of this Court that the co-accused Mohit Pawar i.e. the other brother of the applicant has been already released on bail as per order dated 05.10.2023 passed by the Special Court at Thane. It is submitted that therefore, the applicant is entitled for relief on the ground of parity.

6. On the other hand, the learned APP has strongly opposed the present application. He has referred to the reply affidavit placed on record and it is brought to the notice of this Court that apart from the present FIR, on three earlier occasions, the applicant has been arraigned as an accused in FIRs registered in the very same police station. It is submitted that the applicant and his two brothers have spread terror in the area, due to which various proceedings have been initiated against

them. It is submitted that the name of the applicant is specifically taken in respect of the incident dated 16.09.2022 and therefore, it cannot be said that he has been wrongly arraigned as accused in the present case.

7. This Court has considered the rival submissions. A perusal of the statement leading to registration of the FIR shows that as regards the incident dated 15.12.2022, the informant has stated the role of only the co-accused Aniket Pawar. The name of the applicant is not mentioned therein. His name finds mention in respect of an alleged earlier incident of 16.09.2022. In respect of the said alleged incident, the informant has named all the three persons, who are arraigned as accused in the present FIR. A perusal of the said statement shows that with regard to the said alleged incident of 16.09.2022, the informant had already given his complaint before the said police station. There is nothing to indicate as to whether any offence was registered on the basis of such complaint / information. In any case, the information or statement leading to registration of the present FIR was given on 15.12.2022, showing that there is delay of about three months in approaching the police as regards alleged incident dated 16.09.2022.

8. Apart from this, the other co-accused person i.e. Mohit Pawar, who was also not named by the informant as regards the alleged incident dated 15.12.2022, has been already enlarged on bail by order dated 05.10.2023 passed by the Special Court at Thane. The status of the present applicant in terms of the allegations against him is identical to that of co-accused Mohit Pawar, and therefore, he is entitled to relief on the ground of parity.

9. As regards the criminal antecedents of the applicant, it is seen that he is arraigned as an accused in three earlier cases, wherein offences have been registered against him, but it appears that the said offences are mainly under Sections 323 and 324 of the IPC. Although there is

reference to Section 452 in one of the FIRs, it is not clear as to whether these aspects have been taken into consideration by the competent authority while granting sanction for registration of offences against the accused persons under the provisions of the Maharashtra Control of Organised Crime Act, 1999.

10. This Court is of the opinion that in the light of the material available on record, and particularly, absence of the name of the applicant as regards allegations pertaining to the incident of 15.12.2022, coupled with the fact that the co-accused person Mohit Pawar has been already enlarged on bail, the present application deserves to be allowed. Since it is specifically alleged that the applicant and co-accused persons have spread terror in the neighbourhood, this Court is inclined to impose appropriate conditions on the applicant. Accordingly, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with FIR No.0281 of 2022 dated 15.12.2022 registered at Shreenagar Police Station, District - Thane on furnishing P.R. Bond of Rs.50,000/- [Rupees Fifty Thousand only] and one or two sureties in the like amount, to the satisfaction of the trial Court;
- (B) The applicant shall not enter jurisdiction of Srinagar Police Station, Thane during the pendency of the trial;
- (C) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;
- (D) The applicant shall co-operate with the proceedings before the trial Court and he shall attend each and every date, unless specifically exempted by the trial Court;
- (E) Upon being released on bail, the applicant shall place on

the record of the trial Court and also provide to the investigating officer, the details of his contact number and residential address within one week of such release.

11. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

12. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab