IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.362 OF 2024

Yogesh Mahesh Modak ... Applicant

V/s.

The State of Maharashtra … Respondent

Mr. Shailesh Chavan with Mr. Nagesh Khedkar and Prithviraj Deshmukh, for the applicant.

Mr. Sameer M. Mangaonkar, APP, for the Respondent/State.

VARSHA DEEPAK GAIKWAD

Digitally signed by VARSHA DEEPAK GAIKWAD

Date: 2024.06.15 14:46:42 +0530

CORAM : ANIL S. KILOR, J.

DATE : 14TH JUNE, 2024.

PC:

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.117 of 2022, registered with Vadgaon Maval Police Station, Pune Rural, Pune for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 120(B) read with 34 of the Indian Penal Code and section 4 (27) of the Arms Act.

3. Learned counsel for the applicant submits that in the FIR the applicant was not named but there was a mention of the fact that there were some unknown persons. It is submitted that the incident

took place on 17.06.2022 and till 29.06.2022 there was no evidence against the applicant. Further, first time in the statement of one witness Baban @ Pankaj Santosh Chothe, he named the applicant. It is submitted that except the said statement, there is no evidence available on record to show that the applicant was present on the spot.

4. On the other hand, learned APP submits that there is CDR which supports the case of the prosecution that, the applicant was present at the spot. However, this fact disputed by the learned counsel for the applicant by showing that the spot which is shown in the CDR is 7 kilometre away from the spot of the incident.

5. Learned APP further submits that since the offence is very serious, this Court may not grant bail.

6. On perusal of the charge-sheet, it is evident that except the statement of witness Baban @ Pankaj, there is nothing on record to show that the applicant was present on the spot. Moreover, the statement was recorded after 16 days of incident. TIP was not conducted. At the same time, it is to be noted that there was no recovery at the instance of the applicant.

7. In the circumstances, considering the nature of evidence available on record against the applicant coupled with the fact of period of incarceration which is two years and the fact that the investigation is completed, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

ORDER

i) Criminal Application is allowed;

ii) It is directed that the applicant shall be released on bail in Crime No.117 of 2022, registered with Vadgaon Maval Police Station, Pune Rural, Pune for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 120(B) read with 34 of the Indian Penal Code and section 4 (27) of the Arms Act on furnishing P.R.Bond of Rupees Fifty Thousand with one local solvent surety in the like amount;

iii) The applicant shall not enter into the territory jurisdiction of Vadgaon Maval Police Station, Pune Rural, Pune till the conclusion of the trial;

iv) The applicant shall provide his address and name of the nearby police station to the IO and shall attend the concerned Police Station on 1st and 16th day of every month between 12.00 p.m. to 2.00 p.m., till the conclusion of the trial except on the date of trial;

v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi) Liberty is granted to the State for cancellation of bail if the applicant commits similar

offence;

vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

8. The Criminal Application is disposed of accordingly.

(ANIL S. KILOR, J)