

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1861 OF 2024

Sachin Govind Walke, Age 34 years,
Occ.Business, R/o.Vidhate Wasti,
Ganesh Nagar, Baner, Pune City.
(Presently at Yerwada Central Prison)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Sudeep Pasbola, Senior Advocate, with Ms.Pushpa Ganediwala,
Mr.Subhash Hulyalkar, Ms.Anima Mishra, Ms.Santoshi PNair,
Mr.Rohin Chauhan i/by Mr.SuhasB.Rohile for applicant.

Mr.Raja Thakare, Senior Advocate, with Mr.SiddharthJagushte and
Ms.Veera Shinde,APP, for State.

CORAM : ANIL S.KILOR, J.

DATE : 2nd September 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.325 of 2021 registered with Chatushrungi Police Station, Pune for the offences punishable under Sections 307, 386, 341, 201, 204, 206, 120(B), 506(2), 141, 143, 147, 148, 149 of the Indian Penal Code r/w Section 39 of Maharashtra Money Lending (Regulation) Act r/w Section 3, 25 of Arms Act r/w Sections 37(1) r/w 135 of Maharashtra Police Act and Sections 3(1)(ii), 3(2), 3(3), 3(4), 3(5) and 4 of Maharashtra Control of Organized Crime Act.

3. In the present matter the role attributed to the present Applicant is that he mediated for the loan transaction between the

son of complainant and accused no.1 and persuaded recovery of said amount after it was advanced to the son of complainant, by assaulting and using filthy and abusive language. In short, it is alleged that Applicant has played active role in recovery of loan.

4. The co-accused Nanda Gaikwad, Sonali Gavare and Dipali Gaikwad were granted bail by this Court. The role attributed to Sonali Gavare and Deepak Gavare i.e. accused nos.4 and 5 respectively is serious as it has come on record that they pulled out the complainant and his son from the vehicle at their bungalow and pushed them in parking lot. Then they dragged these persons into their bungalow and co-accused Sonali Gavare gave threats of life to them if they lodge complaint. Thereafter they again dragged these persons up to gate of their bungalow and kicked them out from the gate.

5. It is evident from the material collected by the Investigating Officer that Applicant was acted upon the instructions of accused no.1 Nanasaheb Gaikwad who advanced loan to the son of complainant. As far as recovery of cash, gold, silver, diamond, four wheeler is concerned, they were recovered from accused nos.4 and 5 Sonali Gavare and Deepak Gavare as well as Nanda Gaikwad and Deepa Pawar. As far as Applicant is concerned, nothing is recovered from the Applicant. So far as antecedents against Applicant is concerned i.e. C.R No.21 of 2020 is the outcome of same incidence and the complainant in both the crimes are same.

6. In the above referred backdrop it is important to note that there is delay of seven months in lodging the complaint. Admittedly the State has not filed any application for cancellation of bail against any co-accused who have been granted bail. If the role of Applicant

and co-accused who have been granted bail are considered, I am of the opinion that parity would apply to the Applicant.

7. No doubt that as pointed out by learned Senior Advocate Mr.Thakare that since provisions of MCOC have been invoked, the twin conditions needs to be satisfied. However, as I have observed that parity would apply in the present case as bail was granted to the co-accused whose role is similar or more serious than the role of Applicant and considering the period of incarceration in view of judgment of the Hon'ble Supreme Court of India in case of *Mohammad Muslim @ Hussain vs. State (NCT of Delhi)*¹ the Applicant is entitled for grant of bail. Furthermore, in the month of June this Court while rejecting the application of co-accused Sachin Walke, had expedited the trial, despite which there is no progress in the trial in last 4 months. Hence, I am of the opinion that this is a fit case for grant of bail.

8. At this stage learned counsel for Applicant on instructions submits that Applicant is ready to abide by any condition including condition that he will not enter into Pune District. In the circumstances, I pass following order :

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the Applicant shall be released on bail in Crime No.325 of 2021 registered with Chatushrungi Police Station, Pune for the offences punishable under Sections 307, 386, 341, 201, 204, 206, 120(B), 506(2), 141, 143, 147, 148, 149 of the Indian Penal Code r/w Section 39 of Maharashtra Money Lending

1 (2023) SCC Online 352

(Regulation) Act r/w Section 3, 25 of Arms Act r/w Sections 37(1) r/w 135 of Maharashtra Police Act and Sections 3(1)(ii), 3(2), 3(3), 3(4), 3(5) and 4 of Maharashtra Control of Organized Crime Act on furnishing P.R.Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;

(iii) The Applicant shall not enter into territorial jurisdiction of Pune District till conclusion of trial, except for attending trial;

(iv) The Applicant shall provide his address and name of nearby Police Station to the Investigating Officer and attend said Police Station on 1st and 16th day of every month between 10.00 a.m and 12.00 noon till conclusion 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 exempted by the trial Court for any reason.

(ANIL S.KILOR, J.)

MST