

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

BAIL APPLICATION NO. 2206 OF 2024

Pradeepkumar Shri Shivchandra Pathak

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. M.D. Pandey, for Applicant.
- Mr. Tanveer Khan, APP for Respondent – State.
- Mr. Laxmikant Shukla a/w Mr. Chandan J. Jaiswal and Ms. Aarti R. Dharamsey, for Intervenor.
- Mr. C.D. Dalvi, PSI, Kasturba Marg Police Station.

CORAM : MANISH PITALE, J.

DATE : 19th JUNE, 2024.

P. C. :

1. Heard, Mr. Pandey, learned counsel for the applicant, Mr. Khan, learned APP and Mr. Shukla, learned counsel appearing for the informant.

2. By this application, the applicant is seeking bail as he has been behind bars since 05th October, 2021, in connection with First Information Report No.1050 of 2021 registered at Kasturba Marg Police Station, Mumbai on 29th September, 2021, initially against unknown persons and subsequently the applicant being arrayed with five other persons as accused for the incident in question. The offences are under Sections 324, 307, 120B, 204 r/w 34 of the Indian Penal Code (IPC), Section 3 of the Arms Act and Sections 37, (1) (A) and 135 of the Maharashtra Police Act.

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3. There are total six accused persons and the applicant before this Court is accused No.2.

4. According to the prosecution, accused Nos.4 and 5 hatched a plan to eliminate the victim on account of their frustration of being deprived of promotion in an organization in which the victim and the said accused Nos.4 and 5 were employees. It is alleged that they contacted accused No.3 to carry out their plan of eliminating the victim, who in turn engaged the accused No.2 i.e. the present applicant. It is alleged that the services of accused Nos.1 and 6 were engaged, for the process of carrying out the actual act. It is alleged that on 29th September, 2021, when the victim was traveling by car, he was shot at and in the process he was injured. Initially, the FIR was registered against unknown persons, but upon investigation the aforesaid accused persons were arrested. The applicant was arrested on 05th October, 2021, and he has remained behind bars since then.

5. The learned counsel for the applicant has brought to the notice of this Court that accused Nos.3, 4 and 5 have been released on bail. While accused No.3 was released by an order dated 01st November, 2023 passed by the Supreme Court, accused Nos.4 and 5 were granted bail by the Sessions Court by separate orders passed on 24th March, 2022. It is submitted that when the master minds behind the alleged act have been already granted bail,

the applicant before this Court also deserves to be enlarged on bail, particularly because he has remained behind bars for about two years and eight months. It is emphasized that the period for which the accused No.3 remained behind bars has been taken into account by the Supreme Court while granting bail to him. It is submitted on behalf of the applicant that he would abide by any conditions that may be imposed by this Court.

6. On the other hand, learned APP and the learned counsel appearing for the informant have vehemently opposed the prayer made in the present application. It is brought to the notice of this Court that call detail records show that the applicant was consistently in touch with accused Nos.1 and 6, who actually carried out the shooting. Apart from this, the material on record shows that the applicant provided shelter to accused Nos.1 and 6 prior to the incident, thereby showing his active involvement in the present case. It is submitted that since the applicant before this Court has played a major role in such a violent incident, this Court may not favourably consider the present application.

7. The allegation against the applicant is that he facilitated the violent act by keeping in touch with accused Nos.1 and 6, who are alleged to have carried out the shooting. It is also alleged that he gave them shelter prior to the incident, thereby showing his major involvement in the present case.

8. There are no criminal antecedents of the applicant before this Court. It is relevant to note that the entire incident took place allegedly because accused Nos.4 and 5, the colleagues of the victim, were jealous with him and they intended to eliminate him. The idea of eliminating the victim took birth in the minds of the accused Nos.4 and 5 and even as per the prosecution in that backdrop they engaged the services of accused No.3 for carrying out the contract killing. In other words, the accused Nos.4 and 5 conspired with accused No.3 to give effect to their intention of eliminating the victim.

9. It is significant to note that accused Nos.4 and 5 were granted bail by the Sessions Court by orders dated 24th March, 2022. Accused No.3 was granted bail by the Supreme Court by order dated 01st November, 2023, despite taking note of his alleged role in the incident. The Supreme Court placed emphasis on the period of incarceration suffered by accused No.3, as he was arrested on 05th October, 2021.

10. It is an admitted position that the applicant has remained behind bars since 05th October, 2021, and therefore, he has suffered incarceration for about two years and eight months. The allegations against him, although in their detail are slightly different, but the drift of the allegations against him appears to be the same as against accused No.3. In fact, according to the

prosecution, it was accused No.3, who was engaged for the contract killing by accused Nos.4 and 5. In the light of the fact that the accused Nos.4 and 5 in whose mind the idea allegedly germinated for eliminating the victim, as also the person who was engaged for the contract killing by accused No.3, have been granted bail, this Court is of the opinion that the applicant has made out a case for bail in his favour. Additionally, it is to be noted that the applicant was also arrested on 05th October, 2021 and that he has undergone incarceration for about two years and eight months.

11. In view of the above, the application is allowed in the following terms:

- (A) The applicant shall be released on bail in connection with First Information Report No.1050 of 2021 registered at Kasturba Marg Police Station, Mumbai, for the offences under Sections 324, 307, 120B, 2024 r/w 34 of the Indian Penal Code (IPC), Section 3 of the Arms Act and Sections 37, (1) (A) and 135 of the Maharashtra Police Act, on furnishing P.R. bond of Rs.50,000/- and one surety of like amount, to the satisfaction of the Trial Court.
- (B) The applicant shall report to Kasturba Marg Police Station, Mumbai, on the first Monday of every month between 10.00 a.m. and 12 noon, till the completion of trial.

(C) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

(D) The applicant shall attend the Trial Court proceedings on each and every date, except when specifically exempted by the Trial Court.

12. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

13. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

14. The application is disposed of.

(MANISH PITALE, J.)