

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

CRIMINAL BAIL APPLICATION NO.3802 OF 2024

Sonu Ravi Choughule

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Satyam Harshad Nimbalkar, Advocate i/b. Abhishek Ulhas Arote for the Applicant.

Mr. Sukanta A. Karmarkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 04th DECEMBER, 2024

P.C. :

1. This is the second time that the Applicant has approached this Court for his release on bail in connection with C.R.No.I-363/2019 registered at Hill Line Police Station, Ulhasnagar, District-Thane under Section 302 read with 34 of IPC. The FIR was lodged on 23.10.2019. The Applicant was arrested on 23.10.2019 and since then he is in custody.

2. Mr. Satyam Nimbalkar, learned counsel for the Applicant and Mr. Sukanta Karmarkar, learned APP for the Respondent-State.

3. Learned counsel for the Applicant submitted that till today even the charges are not framed and, therefore, there is no immediate prospect of the trial starting and concluding within a reasonable period. Considering this inordinately long period for which the Applicant is in custody without trial, I am entertaining this Application and I have heard the learned counsel for the Applicant as well as the learned APP on merits of the matter again. On the earlier occasion, after arguing, the Application was withdrawn. That Application was Criminal B.A. No.447/2021. It was allowed to be withdrawn. This fact is recorded in the order dated 17.2.2022. The investigation is over and the charge-sheet is filed and as mentioned earlier the case is pending before the Sessions Court but even the charges are not framed. The FIR is lodged by one Shivnarayan Mourya. He has stated that on 22.10.2019 at about 10.00 p.m., one Dilip Khushwah @ Dilip Master had his dinner in their small workshop. At about 10.50 p.m., the informant noticed that Dilip was having fight with some persons. Dilip was telling them not to indulge in bad

activities at that place. Those persons started assaulting Dilip. Out of them, one person threatened the informant. The FIR further mentions that the informant entered his workshop. That person followed him. He picked up a scissor lying in the workshop. He took it out of the workshop and gave a blow on Dilip and then all of them left the place. The prosecution case is that the said person giving the blow to Dilip was none other than the present Applicant.

4. Apart from the fact that the Applicant is in custody for inordinately long period without trial, learned counsel for the Applicant submitted that there is a weak piece of evidence against the Applicant in the form of extra-judicial confessions and his subsequent conduct. He submitted that in any case the offence would not amount to the one punishable under Section 302 of IPC but would be a much lesser offence because it has occurred without any premeditation and there was only one blow given to the victim near the shoulder. He submitted that in this background, the Applicant be granted bail.

5. Learned APP strongly opposed these submissions. According to him the offence is serious and there is sufficient material against the Applicant in the form of extra-judicial confessions and blood stained clothes.

6. I have considered these submissions. As far as merits of the matter is concerned, the first informant has given statement under Section 164 of Cr.P.C. wherein he has mentioned that after around 4.30 a.m. in the early morning after the incident, the police had caught three persons initially and then caught the fourth person who was brought before the informant and at that time he identified the fourth person who was the Applicant.

7. There is statement of another witness Sandesh Gaikwad recorded under Section 164 of cr.P.C. He has stated that on 22.10.2019, the Applicant called him telephonically and told him that he had assaulted one person with a scissor. Similar statement regarding extra-judicial confession is given by one Siddhi Pawar under Section 164 of Cr.P.C. mentioning the same extra-judicial confession. Even he was told

telephonically by the Applicant that he had assaulted one person. There are statements of witnesses, like Hitesh Tejwani, who has stated that after the incident when a crowd gathered there, the Applicant was threatening the crowd.

8. The postmortem notes show that the deceased has suffered one deep incised wound below the left clavicle 8 cm from manubrium.

9. From all this material it could be seen that there is some definite incriminating material against the Applicant. However, there is only one stab given by him. It was near the shoulder on the front side. The incident had occurred after a quarrel. There does not appear to be premeditation. Therefore, there is force in the submission of the learned counsel for the Applicant that the offence may not be one under Section 302 of IPC. The Applicant is already in custody for a very long time since 23.10.2019. There is no justification for not even framing the charges after all these years. Therefore on all these aspects the Applicant deserves to be

released on bail. He cannot be kept in custody indefinitely without trial. Hence, the following order :

ORDER

- (i) In connection with C.R.No.I-363/2019 registered at Hill Line Police Station, Ulhasnagar, District-Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two local sureties in the like amount.
- (ii) The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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