



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 822 OF 2023

(SHAHIRUKH ASLAM SHEIKH..VS.. STATE OF MAH. THR. PS MAJRI, DIST. CHANDRAPUR)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.M.Lodha, Advocate for the Applicant.
Shri N.S.Rao, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : JANUARY 05, 2024.

1. Heard.
2. This is a successive bail application after the first bail application was rejected on 23/09/2022.
3. By this application the applicant is seeking bail in Crime No.189 of 2021, registered with Police Station, Majri, District : Chandrapur for the offences punishable under Sections 397, 382, 353, 333, 379, 511 and 34 of the Indian Penal Code.
4. This application is moved on the ground that the bail granted by this Court vide order dated 25/02/2023 to the co-accused-Anna @ Yelumalai Mani Malaikorwan in Criminal Application (BA) No. 89 of 2022 as well as the trial Court has granted bail to the co-accused Tushar on 10/11/2021 were not brought to the notice of this Court and therefore, this is an additional material on which the applicant is relying upon in support of the successive bail application.

5. It is submitted that the roles of both the accused persons are identical to the role of the applicant. As far as antecedents are concerned relying upon which the bail application was rejected, it is submitted that 8 cases were decided, however, details of the same have not been brought on record by the State or no details were given about the same. The learned counsel for the applicant submits that he made a search of those cases and thereupon it was noticed that the offences are not of similar nature.

6. It is further submitted that the applicant is in jail from last 28 months and maximum punishment is 10 years.

7. It is further submitted that there is no possibility that in near future the trial would conclude as till date charge has not been framed.

8. On the other hand, the learned A.P.P. strongly opposed the application and pointed out that in the identification parade the applicant was identified. Accordingly, he prays for dismissal of the application.

9. As the applicant has pointed out additional material which was not brought to the notice of this Court, while rejecting the first application, I am of the opinion that this application is maintainable. It is to be noted that, as the role of the applicant is identical to the

accused who have been released on bail, the applicant is entitled for bail on the ground of parity. Moreover, as far as identification parade is concerned this Court, while granting bail to the co-accused-Anna has observed that the identification parade was conducted one month after the date of arrest and considering the material available on record granted bail to the co-accused-Anna.

10. Similar is the case of co-accused Tushar who has been released on bail.

11. As far as antecedents are concerned, from the chart it appears that in some of the matters he has been acquitted and some of the offences are under the Prohibition Act and not of similar nature. In addition to the same, considering the period of incarceration of the applicant coupled with the fact that till date charge is not framed and there is no possibility that in near-future the trial would conclude.

12. In the circumstances, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order :

- i) The application is **allowed**.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No.189 of 2021, registered with Police Station, Majri, District: Chandrapur for the offences punishable under Sections 397, 382, 353, 333, 379, 511 and 34 of the Indian Penal Code on furnishing P.R. Bond in the sum of Rupees Fifty Thousand with one solvent surety in the like amount.

- iii) The applicant shall not enter into the territorial jurisdiction of Chandrapur and Tahsil Bhadravati till conclusion of the trial, except for attending the trial and also shall not leave the jurisdiction of the concerned Police Station without permission of the Court.
- iv) The applicant shall provide his address. Further he shall provide the name of the Police Station, which he shall attend on First and Sixteenth day of every month between 10:00 a.m. and 11:00 a.m.
- 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) The applicant shall attend the trial before the Sessions Court regularly on every date unless exemption is granted by the Special Court.
- vii) Liberty is granted to the State to apply for cancellation of bail if the applicant commits any offence.

The Criminal Application is **disposed of** accordingly.

JUDGE