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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 723 OF 2024

Sharad Namdev Nimse

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Ms. Anjali Awasthi a/w. Ms. Rachana Mahale, Advocates for Applicant.
 - Ms. Megha S. Bajoria, APP for Respondent – State.
 - Mr. P.B. Patil, PSI – Shahapur Police Station present.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 17, 2025.

P.C.:

1. Heard Ms. Awasthi, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent – State.

2. After hearing the learned Advocates appearing for the respective parties on 04.04.2024, this Court passed the following order:-

“1. Heard Ms. Awasthi, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent – State.

2. Prisoner’s Medical Report submitted by the Chief Medical Officer, Talaja Central Prison, Navi Mumbai prima facie when seen shows that Applicant is suffering from medical complications and he has been prescribed medication but also would require surgery.

3. I have heard the learned Advocate for Applicant. Applicant is indicted in an offence under Section 302 and other allied offences of the Indian Penal Code, 1860 for committing the murder of the victim by inflicting a knife blow to stab him.

4. Ms. Awasthi, learned Advocate for Applicant would submit that the incident occurred at the spur of moment when both the Applicant and victim were riding their respective motorcycles and unintended spitting by the Applicant fell on the victim due to which he was enraged and the situation turned ugly and resulted into a verbal altercation and scuffle. She would fairly submit that Applicant called his friends to assist him to retaliate and teach the victim a lesson but in the scuffle he stabbed him. Applicant is incarcerated for the past 3 years and 3 months.

5. Ms. Bajoria, learned APP appearing for the prosecution shall ascertain the veracity of submissions made on behalf of Applicant from the record of the case and accordingly apprise the role and motive of Applicant in the crime to the Court on the next adjourned date. Considering his long incarceration in prison, prosecution shall also ascertain the status of trial and inform the same to Court for consideration.

*6. Considering the medical emergency of the Applicant, list the Bail Application for hearing on Board on **17th April, 2025 at 02:30 p.m.**"*

3. As delineated in the aforesaid order, *prima facie* learned prosecutor has attempted to argue on certain discrepancies emanating from the statement recorded by the prosecution, but if that be the case for consideration at the bail stage then it might affect the prosecution case in trial. What is stated in paragraph No.4 of the order dated 04.04.2025 is the incident in question. Derivation of the said incident is such that it was not pre-meditated and planned but happened due to the precursor incident of spitting which has been noted by the Court. Undoubtedly, it has resulted into the unfortunate fatal incident later when the incident escalated.

4. In the present crime, two other accused persons have been enlarged on bail primarily because of their role. Applicant is incarcerated in prison pending trial since 19.12.2021.

Commencement of trial and its conclusion in the near foreseeable future is a distinct impossibility.

5. Ms. Bajoria, learned APP has fairly informed the Court that in the present crime the charge has not been framed and in that view of the matter, solely considering the ground of long incarceration pending trial, Applicant is enlarged on bail.

6. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;
- (iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

7. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

8. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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Date: 2025.04.17
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