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

CRIMINAL BAIL APPLICATION NO. 1695 OF 2024

Kalim Rauf Sayyed

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Ravi Dwivedi a/w. Mr. Sainath S. Baji, Mr. Satish Shukla and Mr. Aditya Gole, Advocates for Applicant.
 - Ms. Dinesh J. Haldankar, APP for Respondent – State.
 - Mr. Bendale, PSI – DCB, CID, Unit – 5, Kurla present.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 19, 2025.

P.C.:

1. Heard Mr. Dwivedi, learned Advocate for Applicant and Mr. Haldankar, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.16 of 2022 registered with DCB, CID Unit – 5, Kurla for the offences punishable under Sections 302, 307, 120-B and 201 read with 34 of the Indian Penal Code, 1860 and Sections 3, 4, 25 and 27 of the Arms Act, 1959.

3. Applicant in the present crime is arraigned as Accused No.8. There are in all 9 Accused persons. He is incarcerated for the past 3 years and 3 days. At this juncture, Mr. Dwivedi informs the Court that

Applicant's total incarceration is in excess of 5 years and 2 months as he is arrested other cases also.

4. Apart from the issue of long incarceration, Mr. Dwivedi, learned Advocate for the Applicant has persuaded the Court to consider his role in the present crime. He would fairly submit that even according to the prosecution case, Applicant was never present at the scene of crime and he could never be present because he was incarcerated in jail at that time. He would submit that as alleged role of the Applicant in the conspiracy in carrying out the present crime was on the instructions of Accused No.1 who was a woman. She has been enlarged on bail by order dated 04.03.2024. That apart, Accused Nos.4, 6 and 7 have also been enlarged on bail. Their role in the present crime according to the prosecution being that of taking part in conspiracy. In view of this, he would persuade the Court to consider the case of Applicant on parity with the case of the other Accused persons who have been released on bail on similar ground.

5. Mr. Haldankar, learned APP has vehemently opposed grant of bail to the present Applicant. He would submit that Accused No.8 – Applicant before the Court is the main person who has given directions for executing the present crime in question. He would submit that admittedly he was incarcerated in prison at the then time but just before the crime was executed when he was taken to Thane Court for

being produced in a case against him, he was spotted giving instructions to the members of his crime syndicate who had come with him and these instructions were given at the behest of Accused No.1. He would submit that even when in jail the Applicant was seen in the CCTV footage indulging in conspiracy in carrying out the present crime and his role in the present crime is all the more important. He would submit that the present crime is a contract killing commissioned by Accused No.1 through the present Applicant and the assailant. He would submit that said Accused No.1 who has been released on bail is a drug peddler and her rivalry with the deceased victim was the motive as the deceased victim opposed her drug selling business in the area.

6. I have heard the learned Advocates for the Applicant and learned APP and with their able assistance perused the record of the case.

7. Admittedly Applicant is not the actual assailant. That apart, he was incarcerated in jail at the time when the crime occurred. Though there are four criminal antecedents which are pointed out by the learned Prosecutor, I am informed by Mr. Dwivedi that he has been released on bail, save and except in two cases including the present case.

8. Be that as it may, Applicant being indicted for conspiracy has suffered imprisonment for more than 3 years and that apart his total

incarceration is in excess of more than 5 years and 2 months. Hence considering the role of the Applicant on parity of other co-accused persons who are granted bail and the *prima facie* material considered herein above, in my opinion, Applicant can be enlarged on bail. Considering that investigation is complete and charge-sheet is filed and the trial is unlikely to commence and/or probably completed in the near future, Applicant is directed to be released on bail.

9. 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) 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;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Saturday 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;

(v) 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;

(vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(viii) 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.

10. 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.

11. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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