

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2804 OF 2024

Aatish Dinesh Gaitadkle	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. Bhavesh Thakur, Advocate i/by Mr. Prajyot Srivastav for Applicant.
 - Ms. Megha S. Bajoria, APP for Respondent.
 - PSI – S. R. Avhad, Tilak Nagar Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 13, 2025

P.C.:

1. Heard Mr. Thakur, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.218 of 2020 registered with Tilak Nagar Police Station for offences punishable under Sections 302, 506(2), 504 read with Section 34 of the Indian Penal Code, 1860 and Sections 4, 25 and 27 of the Arms Act, 1959 and Section 37(1)(a) and 135 of the Maharashtra Police Act, 1951.

3. Applicant is arraigned as Accused No.2 in the present crime. He is arrested on 20.07.2020. There are four Accused. Accused Nos.3 and 4 have been enlarged on bail. The role of Applicant is according

to prosecution case is that he inflicted blow with weapon i.e. knife on the back of the victim.

4. Mr. Thakur, learned Advocate would persuade the Court to consider the long incarceration of Applicant pending trial. In so far facts of the present case are concerned, he would persuade the Court to consider that alleged incident was free-fight which happened between the parties outside a liquor shop on the day of गटारी अमावस्या. He would fairly inform the Court that Accused No.4 who has been enlarged on bail being indicted with having been used a knife and inflicting a blow on the leg of the victim.

5. Ms. Bajoria, learned APP in her usual fairness has informed the Court that there was a previous enmity between parties which is evident from witness statement appended at page No.56 of the Application. She would submit that *prima facie* material though is available in the form of written statement with respect to the role attributed to Applicant in the present crime, long incarceration of Applicant is evident. She would on instructions inform the Court charge has been framed and out of probable number of witnesses stated in the charge-sheet, prosecution would desire to examine atleast 15 witnesses to complete the trial. Considering the facts in the present case leading to the incident in question which was free-fight which happened in public place on the road outside the liquor shop between

the parties solely on the ground of long incarceration pending trial with probability of trial not be completed in the near foreseeable future and Accused No.4 having an identical role as that of Applicant having been enlarged on bail by the Court, I am inclined to consider the case of Applicant for enlarging him on bail for that reason.

6. Needless to state that complicity of Applicant shall be proved by the prosecution and adjudicated by the Trial Court in the trial. In view of the above long incarceration for 4 years 7 months and 24 days pending trial and the uncertainty of the completion of trial in the near foreseeable future, Application stands allowed on the following terms:-

- (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 and contact number 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 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;

- (v) Except for attending the trial and for the purpose of reporting to the investigating officer, the Applicant shall not enter the area Tilak Nagar Police Station after being released on bail, till the trial concludes as per the statement made by learned Advocate for Applicant;
- (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 with any of the witnesses or tamper with the evidence in any manner; and
- (ix) Applicant shall surrender his passport, if any, to the Investigating Officer;
- (x) 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 No.2804 of 2024 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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