

Ajay

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

BAIL APPLICATION NO. 3062 OF 2024

Pralhad Chandrakant Machalu

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Amit Munde a/w. Jai Vohra and Mr. Sunil Chavan, Advocates for Applicant.
 - Ms. Megha S. Bajoria, APP for Respondent – State.
 - Ms. Dnyaneshwar Ladse, PSI – Mulund Police Station present.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 08, 2025.

P.C.:

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

2. Present Bail Application is filed by Applicant for seeking regular bail in connection with Crime No.382 of 2022 registered with Mulund Police Station for the offences punishable under Sections 302, 364, 141, 143, 144, 147, 148 and 149 of the Indian Penal Code, 1860 (for short “**IPC**”).

3. The incident in the present case has occurred on 09.06.2022 and the Applicant has been arrested 15 days later on 24.06.2022. According to the First Informant – wife of the deceased, 7 accused whose names are given in her complaint on the date of the incident

approached the victim i.e. husband of Complainant and due to some previous enmity of the principal Accused No.1 – Chetan Vijay Shirsat with the victim, *inter alia*, pertaining to some property issue, abused the victim, threatened him and dragged him on one motorcycle which was driven by one of the accused namely Accused No.7 – Arjun Sanap. At that time, Complainant has stated that her husband was also beaten by fist blow by all 7 Accused.

4. However, in so far as the use of weapon and the injury inflicted on the victim is concerned, Complainant specifically states that after dragging the victim to a particular incident spot in front of New Aishwarya Building, Chakkiwali Galli, Goshala Cos Road, Mulund (West), Mumbai, Accused No.1 – Chetan Shirsat removed लायटरवाला चाकु (knife) and slashed the victim on his neck and chest. The medical evidence in this regard supports the injuries which are stated in the Complainant.

5. In so far as specific role of the Applicant is concerned, Ms. Bajoria, learned APP would draw my attention to the complaint and one of the witness statements of the eye witness to the incident by name Durvesh Prakash Salve appended at page No.56. She would submit that if the said witness statement is perused by the Court, it is evident that there is a specific role attributed to the present Applicant.

6. She would submit that the eye witness has stated that when he and his friends attempted to help the victim who was dragged on the motorcycle by Accused No.1, it was the Applicant and his other friends present there who prevented them from interfering and also in the process threatened them. She would therefore submit that Applicant has not only abetted or aided the Accused in the present case but he has been specifically identified by the eye witness. Next she would submit that Accused is having two criminal antecedents and therefore it would not be worthwhile to consider granting the present Application. She would further submit that the charge-sheet has been filed in the present case and charge is also framed.

7. Mr. Munde, learned Advocate for the Applicant would submit that the two pending criminal antecedents in which the Applicant has been indicted are under Section 324 of the IPC and they have been registered against him in the past.

8. On the basis of the complaint as also the eye witness's statement which have been read by the learned APP, *prima facie*, it is seen that in so far as the Applicant is concerned, role of the Applicant is described to have used fist blow on the victim.

9. Role of the accused as can be seen from the complaint is only to the extent that when the victim was being dragged on the motorcycle driven by Accused No.7 by the principal Accused No.1, at

that time the present Applicant alongwith 3 other accused were around them. Complainant in her complaint does not state that the other accused threatened the friends of the victim who attempted to intervene in her Complainant. All that she would submit is that when the victim was dragged by the motorcycle, at that time all 7 Accused beat the victim by fist and blows. The said statement as can be seen from the complaint is a general statement as it is not giving adequate description of the persons who beat the victim.

10. Admittedly, there is no recovery of any weapon from the present Applicant. There is no direct accusation of either the Complainant or any of the witnesses whose statements have been recorded that the Accused assaulted the victim save and except the above general statement.

11. Considering the role of the Accused and the facts delineated herein above, I would to give the benefit of doubt to the Applicant to release him from the jail despite two criminal cases pending against him as he has not been convicted in those cases. He is incarcerated since 24.06.2022 for a period of 2 years, 6 months and 15 days and the possibility of trial not concluding so being seen, the Applicant can be enlarged on bail.

12. Hence, the following order:-

- (i) Applicant – Pralhad Chandrakant Machalu is directed to be immediately released from prison in connection with C.R. No.382 of 2022;
- (ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one surety of the like amount;
- (iii) Applicant shall report to the Investigating Officer at Mulund Police Station, once every month on the first Monday of the month between 10:00 a.m. to 12:00 noon;
- (iv) 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 revocation 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;
- (ix) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and /

or change of residence or mobile details, if any, from time to time, as applicable; and

- (x) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

13. Bail Application is allowed and disposed of in the above terms.

[MILIND N. JADHAV, J.]

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