

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3150 OF 2024

Prakash @ Prince Umesh Solanki .. Applicant
Versus
State of Maharashtra .. Respondent

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- Mr. Amrish Salunke a/w Mr. Durgesh Pandey, Ms. Shraddha Shinde & Mr. Abhiram Venugopal for Applicant
 - Ms. Mahalakshmi Ganapathy, APP for State
 - Mr. Prakash Sonawane, PSI, Powai, Mumbai

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 27, 2025

P. C.:

1. Heard Mr. Salunke, learned Advocate for Applicant and Ms. Ganapathy, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in connection with Crime No. 564/2020 registered with Powai Police Station, Mumbai for the offences punishable under Sections 302 r/w 34 of the Indian Penal Code, 1860 (for short, "**IPC**") and Sections 37(1) r/w 135 of the Maharashtra Police Act, 1951.

3. Order dated 13.02.2025 stands complied with. Affidavit of Mr. Prakash Shridhar Sonawane, PSI, Powai Police Station dated

26.02.2025 has been filed. The conduct of the Applicant while in jail has been listed in the affidavit. *Prima facie* when the said affidavit is read, it is seen that skirmish has occurred between the inmates of the jail when they were having tea and one of the inmates had dashed the Applicant. Mr. Salunke, learned Advocate for Applicant would persuade the Court to consider the capacity of inmates in jail considering that Applicant is housed in Mumbai Central Prison where this Court has in its order dated 12.12.2024 in Criminal Revision Application (st) No. 19724/2024 taken cognizance of the overcrowding of the inmates in the said prison. He would submit that present Application for Bail be therefore considered on the ground of long incarceration of the Applicant since Applicant is in incarceration since 31.10.2020 i.e. 4 years 3 months and 28 days.

4. On the issue of merits, he would draw the attention of Court to the statement of the eye witness who was accompanying the victim namely Sachin Subhash Dhadke appended at page Nos. 49-59 of the Application. On reading the said statement, it is seen that the statement of the eye witness to the incident who was accompanying the deceased victim on the date of the incident is completely at variance with the statements of other eye witnesses who had seen the said incident. The incident occurred at a public place on the road near Nityanand Garage. Motive for the crime which is *prima facie* seen

from the record of the case was in respect to certain dues which were payable by the deceased victim to the complainant pertaining to the food mess (खानावळ). Though the injury certificate certifies the injuries having received by the victim as grievous, however in view of the variance in the statement of eye witnesses as also Section 164 statement of eye witness Sachin Dhadke which being at variance with the contents of the FIR as also considering the long incarceration of the Applicant i.e. 4 years 3 months and 28 days and there being no possibility of the trial being completed within the foreseeable future, Applicant has made out a case for grant of bail.

5. In view of the above, present Application is allowed in terms of prayer clause (i) 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 shall report to the Investigating Officer of concerned Police Station on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter as and when called;
- (iii)** 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;

- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court. He shall deposit his passport, if any, within two weeks after being released on bail with the Trial Court;
- (v) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vi) 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;
- (vii) Any infraction of the above conditions shall entail cancellation of this order.

6. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on the merits of the case.

7. Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]