

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3330 OF 2024

Krushna Mangesh Patil @ Kalya

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....

- Mr. Amrish R. Salunke a/w Ms. Shraddha Shinde, Mr. Durgesh Pandey, Ms. Tanvi Gaikwad, Mr. Abhiram Venugopal & Mr. Sunil Kumar Gupta for Applicant
- Mr. Balraj B. Kulkarni, APP for Respondent - State

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 28, 2025

P. C.:

1. Heard Mr. Salunke, learned Advocate for Applicant and Mr. Kulkarni, learned APP for Respondent - 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. 569/2022 registered with V.B. Nagar Police Station for the offences punishable under Sections 307, 452, 323, 504, 506(2), 387, 120-B and 34 of the Indian Penal Code, 1860 (for short, "**IPC**"), Sections 4 & 25 of the Indian Arms Act, 1959 and Section 37(1) and 135 of the Maharashtra Police Act, 1951.

3. Applicant was arrested on 24.09.2022. Case of the prosecution is that on 15.09.2022 at about 7.30 pm, first informant Krushna Pille

had visited Laxmi Diagnostic Centre along with his relative for taking x-ray when the three accused persons in the present crime i.e. accused Nos. 1 to 3 barged into the said Diagnostic Centre and assaulted the first informant. Motive for the same was previous enmity between the parties.

4. Mr. Salunke would submit that period of 2 years 6 months & 4 days have elapsed pursuant to the arrest of Applicant. He would fairly apprise the Court of the details of the Applicant's antecedents which are appended to the Application which indicate that Applicant has a history of criminal involvement in 19 prior antecedents but in a majority of then he has been acquitted and released on bail. He would submit that according to prosecution case Applicant's area of operation primarily falls within the jurisdiction of V.B. Nagar Police Station and Ghatkopar Police Station where he is allegedly associated with a network of accomplices. He would inform the Court that following the arrest of Applicant, prosecution invoked charges under the MCOCA against him. However, the said charges were subsequently withdrawn and revoked due to non-grant of sanction by the Competent Authority. He would submit that the long incarceration of Applicant pending trial is the reason for making the present Bail Application.

5. Mr. Kulkarni, learned APP would however vehemently oppose the Application for grant of bail on three specific grounds. Firstly he

would submit that medical report appended at page No. 88 of the Application if perused by the Court would show that first informant victim was assaulted and injured by a dangerous weapon called fighter punch / knuckle punch which is comprised of hard metal. He would argue that infliction of injuries and use of dangerous weapon by present Applicant must be noticed by the Court. He would submit that motive of the crime is evident due to previous enmity and grudge held by the three accused persons against the first informant. Secondly he would submit that Applicant has several antecedents and as such it would disentitle him to be released on bail and in all likelihood he is like to re-offered himself considering his past history. Thirdly he would submit that if Court directs completion of trial in a time bound programme, prosecution will endeavour to make every effort to complete the trial. He would submit that if Applicant is let out on bail, he would be a potential threat to the society considering his past record. He would therefore persuade the Court to dismiss the present Application.

6. The only reason which impels me to consider the present Application is incarceration of the Applicant rather long incarceration of 2 years 6 months & 4 days which is pending trial. Investigation is completed, charge sheet has been filed. Though charge has been framed, trial has not commenced yet. The commencement and

completion of the trial in the near foreseeable future being a distinct impossibility persuades the Court to consider the present Application. There is no doubt that due consideration must be given to the submissions advanced by the learned APP; however, concerns raised therein can always be addressed and safeguarded by issuing appropriate directions. There cannot be any hard and fast rule that mandates an accused undertrial to undergo incarceration for a specific period solely based on the nature of the offence alleged under the IPC before being considered for release on bail. The Court in its discretion has to consider the bail plea on *prima facie* consideration of the facts placed before it. That discretion would be based on the facts evolving from the first information report, witness statements and material placed on record in the chargesheet. The injuries sustained in the present case are classified as simple, there is no doubt that though a sharp weapon i.e. fighter punch/knuckle punch was used. However, prolonged period of incarceration pending trial coupled with absence of any indication from the prosecution regarding the commencement of trial militates against depriving the undertrial accused of his right to speedy trial and / or to seek release on bail. Probability of examining 45 witnesses as stated in the chargesheet would be a tall proposition and would undoubtedly take some time. This is because Applicant would be entitled to a speedy trial equally under Article 21 of the

Constitution of India. Considering the overall circumstances which are *prima facie* stated herein above from the material placed before me and the fact that accused No. 3 has been enlarged on bail, the Applicant can be released on bail. Needless to state that the apprehension expressed by the learned APP can be adequately considered by passing of the appropriate directions. 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 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) 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;
- (viii) Applicant shall not enter the jurisdiction of V.B. Nagar Police Station and Ghatkopar Police Station until the completion of trial, save and except to attend the Police Station as directed herein;
- (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.

Amberkar

[MILIND N. JADHAV, J.]

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Digitally signed
by RAVINDRA
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Date:
2025.03.29
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