

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3605 OF 2024

Ashish Manmoorat Pandey

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Ms. Jayshree Tripathi a/w. Ms. Anjali Raut, Advocates for Applicant.
 - Ms. Mahalakshmi Ganapathy, APP for Respondent.
 - API – Shekhar Tadvi, Rabale Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 02, 2025

P.C.:

1. Heard Ms. Tripathi, learned Advocate for Applicant and Ms. Ganapathy, 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.88 of 2024 dated 19.02.2024 registered with Rabale Police Station for offences punishable under Sections 307, 354, 323, 504, 506, 141, 143, 147, 149 and 34 of the Indian Penal Code, 1860 (for short 'IPC').

3. Complaint is filed by one Shantabai Karandekar stating that on 19.02.2024 on the intervening night of 19.02.2024 and 20.02.2024, she and her daughter alongwith relative namely wife of brother of daughter's husband (sister-in-law) after visiting hospital where her son

was admitted due to he having been injured in a scuffle and fight with Accused persons, she went to reason out with them as to why they had assaulted her son and during this meeting Accused persons assaulted them.

4. First Informant – Complainant filed complaint in the Police Station and Applicant and his two accomplices were arrested. In all three Accused persons have been indicted and arrested in the present crime on the complaint of First Informant. Present Applicant is arraigned as Accused No.2. In so far Accused Nos.1 and 3 are concerned, they have been enlarged on bail by Court.

5. Learned APP has opposed grant of bail on the ground that Applicant is having several antecedents for having committed similar offences rather bodily offences and he is part of a local gang instrumental in committing crime which is evident from list of antecedents placed on record. She would submit that Applicant is having atleast 10 antecedents registered against him in the jurisdiction of Rabale MIDC Police Station and Kalwa Police Station and would therefore persuade the Court that considering the gravity of the offence against the women in question, this Court should reject the Application.

6. I have heard the submissions made by learned Advocate for Applicant and learned APP for Respondent and perused the record of

the case.

7. In so far as case of prosecution is concerned, *prima facie* the record shows that no specific role whatsoever is attributed to any of assailants in the crime. This is one of the mitigating factor which has been considered by the Court while enlarging the other two co-accused persons on bail. The same ground also applies on parity to the case of the Applicant before me.

8. That apart, record also reveals that the incident in question was triggered by two precursor incidents. Firstly, assault carried out by the Accused persons on Sainath and Kisan Waghmare son of First Informant who was admitted in hospital for treatment and thereafter the First Informant having attempted to reason out with the assailants. / accused persons in the dead of the night at 01:30 a.m.

9. Though, learned APP would submit that Court needs to consider the attack on women in the present case, *prima facie* it is seen that First Informant and the other two ladies who accompanied her went to reason with the Accused persons and their friends at midnight. Record *prima facie* reveals that two precursor incidents were between the same parties and both sides attempting to establish their supremacy in the local area. The medical certificate which is appended at page No.92 of the Application *prima facie* shows sufferance of simple injury by a blunt and hard object. Learned APP would submit

that there are head injuries due to assault which has been certified by a private Hospital and such attack could have led to fatality also.

10. *Prima facie*, after considering the aforesaid facts and circumstances and no specific role attributed to Applicant, as also other two Accused persons have been released on bail, Applicant can be released on bail on parity. The concern expressed by the learned APP with respect to Applicant re-offending himself due to his criminal antecedents can be addressed by imposing appropriate conditions. In that view of the matter, Application is allowed subject to following 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 not enter jurisdiction of Kalwa Police Station, Rabale Police Station and Rabale MIDC Police Station till the completion of trial except for attending trial and reporting Investigating Officer;
- (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 any of the witnesses or tamper with the evidence in any manner; and
- (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.

11. It is clarified that the observations made in this order are

limited for the purpose of granting Bail only. They shall not be construed as observations on merit. The trial shall be adjudicated on the strength of evidence led by parties and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

12. Bail Application No.3605 of 2024 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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