

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3828 OF 2024

Satyam Subhashchandra Chaube ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Sanjay R. Singh for Applicant.
Mr. Ajay Patil, APP for Respondent-State.
Mr. Pravin Murlidhar Patil, PSI, Sakinaka Police Station.

CORAM : MANISH PITALE, J.
DATE : JANUARY 21, 2025

P.C. :

. Heard Mr. Singh, learned counsel for the applicant and Mr. Patil, learned APP for the respondent-State.

2. The applicant was arrested in connection with FIR No.0931 of 2020 dated 01.08.2020 registered with Sakinaka Police Station, Mumbai, initially for offences under Sections 323 and 326 of the Indian Penal Code, 1860 (IPC). Subsequently the victim died on 11.08.2020 and therefore, charge-sheet was filed against the applicant and the co-accused persons for offences under Sections 302, 307, 323 and 326 read with Section 34 of IPC. The investigation was completed and charge-sheet was filed on 20.01.2023. Since the applicant herein was arrested, eventually in June 2023, a supplementary charge-sheet came to be filed.

3. At the outset, the learned counsel for the applicant submits that the remaining two accused persons, in the present case, have been granted bail. Co-accused Bagga was granted bail by the Sessions Court, while co-accused Manish Tiwari was granted bail by this Court by an order dated 04.12.2024 passed in Bail Application No.2995 of 2024.

4. The learned counsel for the applicant relies on the principle of parity to seek relief in the present application. It is submitted that the statements of witnesses would show that there are inconsistencies and that in any case, at least two eye-witnesses have stated that the applicant along with co-accused Manish Tiwari had assaulted the victim only by means of fists and kicks. It is submitted that the applicant has already suffered incarceration for 19 months and that although charge has been framed, not a single witness has been examined till date.

5. On the other hand, the learned APP submits that two eye-witnesses have attributed the same role to the applicant as is attributed to co-accused Bagga, who is said to have used bamboo stick to assault the victim. It is highlighted that head injuries were caused to the victim, that eventually led to his death. It is further submitted that the applicant remained absconding for about three years and he could be eventually arrested only in June 2023. On this basis, a distinction was sought to be made between the co-accused persons and the applicant. It was further brought to the notice of this Court that the applicant has 9 criminal antecedents, the FIRs having been registered between the years 2017 and 2019.

6. This Court has considered the rival submissions in the backdrop of the material placed on record. It is an admitted position that both the co-accused persons have been enlarged on bail, while the applicant is the only accused person behind bars. A perusal of the statements of the eye-witnesses recorded during the course of investigation shows that two eye-witnesses have stated that the applicant along with the co-accused Manish Tiwari assaulted the victim by way of fists and kicks, while two other eye-witnesses have stated that the applicant along with co-accused Bagga had used a bamboo stick to assault the victim. Apparently, there are inconsistencies in the versions of the eye-witnesses as regards the

exact role of the applicant and as to whether, he indeed used the bamboo stick to assault the victim.

7. Apart from this, co-accused person Bagga was granted bail by the Sessions Court, despite the fact that all the eye-witnesses consistently stated that he had used bamboo stick to assault the victim. The main ground on which co-accused Bagga was granted bail was that he had suffered incarceration for a period of about three years. This Court is of the opinion that the inconsistencies in the versions of the eye-witnesses and the fact that at least two eye-witnesses attributed role to the applicant of having assaulted the victim by fists and kicks is a factor that inures to his benefit.

8. It is also an admitted position that although charge has been framed, not a single witness has been examined, while the list of witnesses shows that the prosecution intends to examine 22 witnesses. In these circumstances, this Court is inclined to grant relief to the applicant.

9. As regards the criminal antecedents of the applicant, it is to be noted that even co-accused Manish Tiwari has criminal antecedents and yet he was granted bail by this Court by observing that stringent conditions can be imposed upon the said accused person. Such stringent conditions can also be imposed upon the applicant and therefore, the application deserves to be allowed.

10. In view thereof, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with FIR No.0931 of 2020 dated 01.08.2020 registered with Sakinaka Police Station, Mumbai, on furnishing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;

- (B) The applicant shall not enter the jurisdiction of Sakinaka Police Station;
- (C) The applicant shall report to Andheri Police Station, on the first Monday of every month between 10 a.m. and 12 noon, during the pendency of the trial;
- (D) The applicant shall cooperate with the trial Court for expeditious trial and he shall attend each and every date, unless exempted for reasons to be recorded in writing;
- (E) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;
- (F) Upon being released on bail, the applicant shall immediately, and in any case within a week, furnish the details of his active mobile number and residential address to the investigating officer as also to the trial Court and update about the same, if there is any change.

11. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

12. The bail application stands disposed of.

(MANISH PITALE, J.)