

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 718 OF 2022

1. Pravin Jaidas Rathod	
2. Mithun Ranjit Rathod	... Applicants
Versus	
The State of Maharashtra	... Respondent

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Mr. A. B. Girase, Advocate for applicants
Mr. R. B. Bagul, APP for respondent - State

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CORAM : R. G. AVACHAT, J.

DATED : 06th SEPTEMBER, 2022

PER COURT :-

1. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0074/2018, registered at Pimpalner Police Station, District Dhule, for the offences punishable under Sections 302, 143, 144, 147, 148, 149, 341, 336, 342, 353, 332, 363, 364, 427, 506 of the Indian Penal Code and under Section 3 of the Prevention of Damage to Public Property Act.

2. Heard. Perused the First Information Report (FIR) and related papers.

3. This is second application for grant of bail mainly on the ground of long incarceration and the trial is going with a snail's pace.

The learned APP has strong reservations to grant the application. According to him, there is change in circumstances. After the withdrawal of the first application, about 18 witnesses have been examined. Two witnesses are sought to be recalled. A video clip of the alleged incident is a part of evidence. The witnesses have been recalled just to confront them with the video clip for identification of the applicants appearing therein. According to the learned APP, it is a serious offence. Number of witnesses are yet to be examined. Number of witnesses cited, have already been examined and trial would be concluded in a near future. He, therefore, urged for rejection of the application.

4. It is true that it is an unfortunate incident. Five innocent persons died in the incident. It was a mob fury. About 28 witnesses have been examined. This Court do not propose to go into the merits of the matter. This Court in paragraph 4 of the order dated 14.08.2019 passed in Bail Application No. 746 of 2019, has observed thus:

“4. On going through the allegations made in the complaint and on perusal of charge sheet, it appears that eye witnesses have taken names of co-accused persons whose applications seeking bail came to be withdrawn today. So far as the present applicants are concerned, the allegations have been made against them to the effect that they have obstructed the police party when arrived at village Rainpada while entering into the Gram Panchayat office of Rainpada where those five persons were confined and subjected to continuous beating by co-accused whose applications for bail came to be withdrawn today. There are no allegations about their involvement in the actual commission of crime. It appears that several villagers gathered on the spot to protest against the police machinery for their inaction to nab the criminals wandering in the area. These applicants are either students or farmers. Their antecedents are clear. They have their permanent residents. They are easily available for trial. Thus, considering the role attributed to the applicants and since there are no allegations against them in respect of actual commission of murders of those five persons, I am inclined to grant them bail on certain conditions.....”

5. When the learned APP was called upon to point out any material indicating the applicants involvement in the assault on the deceased persons, no such material was referred to. The same *prima-facie* indicates and the observations in aforesaid paragraph No.4 indicate that it is not the case of the prosecution that the applicants herein were involved in the offence of murder of those five innocent persons. The applicants allegedly obstructed the police party and prevented them from taking away the dead bodies.

6. The applicants have been behind the bars for last little over four years. Still 10 - 15 witnesses are to be examined. In the facts and circumstances of the case, this Court finds further detention of the applicants, unnecessary. The application is therefore allowed in terms of following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicants be released on bail in connection with Crime No.0074/2018 registered at Pimpalner Police Station, District Dhule, for the offences punishable under Sections 302, 143, 144, 147, 148, 149, 341, 336, 342, 353, 332, 363. 364. 427, 506 of the Indian Penal Code and under Section 3 of the Prevention of Damage to Public Property Act, on their executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with surety bond each of the like amount.
- (iii) The applicants shall attend the concerned police station once a week i.e. on every Sunday by 12.00 noon till conclusion of trial.
- (iv) The applicants shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]