

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 768 OF 2022

Shri Amol Dattatray Sabale]
Age: 34 Yrs, Indian Inhabitant]
R/at Vaduth, Tal – Satara,] Applicant/
Dist. Satara.] (Org.Accused No.4).

Versus

The State of Maharashtra]
Through Police Inspector,]
Satara Taluka Police Station,]
Satara.] Respondent.

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Mr Niranjan Mundargi i/by Mr. Shailesh Chavan for the
Applicant.

Mr A. R. Kapadnis, APP for the Respondent-State.

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CORAM : R. N.LADDHA, J.

DATE : 19 DECEMBER 2022

P.C.:

Heard Mr Niranjan Mundargi, learned Counsel for
the Applicant, and Mr A.R.Kapadnis learned Additional Public
Prosecutor for the State.

2. By this application, the Applicant is seeking bail in connection with C.R.No. 393 of 2020 registered at Satara Taluka Police Station, Satara, against the Applicant for the offences punishable under Sections 302, 143, 147, 148, 149, 201 and 452 of the Indian Penal Code, 1860.

3. Mr Niranjan Mundargi, learned counsel appearing on behalf of the Applicant, submitted that the Applicant was arrested on 7th December 2020, and since then he has been languishing in jail. It is submitted that in the FIR, the Applicant was not named. In the alleged oral dying declaration of the deceased to the First Informant, no role has been assigned to the Applicant, nor it is alleged that the Applicant was present on the spot. It is submitted that the statements of Dilip Sabale, Shashikant Sabale, Prashant Sabale and Vikrant Sabale, the alleged eye-witnesses, were recorded on 26th August 2020, after a delay of more than one month. However, they stated contrary to what they had stated in their earlier statements dated 22nd July 2020. In their earlier statement, they have shown ignorance about the incident. It is submitted that none of the alleged eyewitnesses, whose statements were recorded immediately after the incident, have not named the Applicant as one of the assailants.

4. It has been submitted that in the charge sheet, the statement of the Applicant was recorded as a witness, and after that, based on the anonymous complaint, the Applicant has been arraigned as accused. He submitted that the Applicant is falsely implicated in this case. It has been submitted that in the FIR, it is specifically mentioned that the complainant, on instructions of Police Naik, had contacted Priti, and she informed that the deceased was harassing her. It has been submitted that at the relevant time when the complainant called Priti, she told the complainant that there was a quarrel between her brothers Amit and Ranjit and the deceased. It is submitted that the dying declaration of the deceased to the complainant refers only to two persons, i.e. Ranjit and Amit.

5. It is submitted that the investigation is over, and the charge sheet has been filed. The Applicant has been in custody for more than one year. It is submitted that nothing was recovered at the instance of the Applicant.

6. Mr A.R.Kapadnis, learned Additional Public Prosecutor appearing for the State, submitted that the offence was committed in well-planned design by the Applicant. The offence is serious. It is submitted that the Applicant was actively involved in the offence that led to the registration of the FIR

against him. It is submitted that the role assigned to the co-accused persons who were released on bail was that they assaulted the deceased with sticks. However, the role attributed to the Applicant was that the Applicant had assaulted the deceased with an axe. He submitted that though immediately after the incident, the Applicant was not named as one of the assailants, some witnesses had come forward later. He further submitted that initially, Shashikant Sabale, Vikrant Sabale, Prasad Sabale and Dilip Sable had not described the incident, but on 26.8.2020, they had given a detailed description of the incident. They stated that all the accused assaulted the deceased.

7. This Court has perused the Application, a copy of the charge sheet and the documents placed on record. It reveals from the record that the incident in question had taken place on 21.7.2020. The complainant Dhiraj Kumbhar is the Police Constable. In his complaint dated 22.7.2020, he stated that whilst he was on patrolling duty, he received a call that one Priti Sabale was being assaulted. Pursuant thereto, he contacted Priti Sabale. Priti Sabale disclosed him that her brothers Amit and Ranjit were assaulting their neighbour Sachin Pawar. According to the complainant, when he visited the spot, he saw Sachin Pawar lying on the ground with his left leg broken and bleeding

injuries on his head. He stated that Sachin Pawar disclosed to him that Ranjit and Amit had assaulted him with an axe. Priti Sable had also disclosed to him that her brothers Amit and Ranjit had assaulted Sachin Pawar as he was harassing her and her daughter.

8. It is not in dispute that the Applicant has not been named in the FIR. The prosecution star witness appears to be Priti Sabale/Pawar, who is none other than the sister of Ranjit and Amit. Immediately after the incident, she stated that her brothers Ranjit and Amit had assaulted the deceased Sachin Pawar. Ranjit and Amit were immediately arrested after the incident. The statements of the witnesses recorded immediately after the incident refer to Ranjit and Amit. Admittedly, the Applicant has not been named in the FIR.

9. Further, it reveals from the record that subsequently, an anonymous letter dated 3.8.2020 was received by the Superintendent of Police. In the wake of this letter re-recording of the statements was initiated. It appears from the record that the persons who allegedly sent the anonymous letter had, in their earlier statement dated 22.7.2020 did not disclose anything about the incident of assault on deceased Sachin Pawar by any person, much less the present applicant. Further, it

appears that on 26.8.2020, after more than one month, the said persons who had sent the anonymous letter gave statement that apart from Amit and Ranjit, four others, including the Applicant had also assaulted Sachin. It appears from the record that on 26.7.2020 statement of one Sachin Chavan was recorded by the Investigating Officer. A perusal of the statement reveals that accused Amit had thrown the axe allegedly used in the incident in the river. It is not in dispute that nothing has been recovered at the instance of the Applicant.

10. The Applicant cannot be said to be at flight risk. The Applicant has remained behind bars for about 17 months. There is nothing on record to show that the Applicant has criminal antecedents. Moreover, nothing was recovered at the behest of the Applicant.

11. In the circumstances, this Court is inclined to grant bail to the Applicant. The apprehension expressed on behalf of the State that the Applicant may influence witnesses, can be taken care of by imposing appropriate conditions.

12. In light of the above, this Court is inclined to grant bail to the Applicant. Accordingly, the Application is allowed in the following terms :

ORDER

a) The Applicant Amol Dattatray Sabale shall be released on bail in C.R.No.393/2020 registered at Satara Taluka Police Station, Satara, on furnishing a P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the concerned Court.

b) The Applicant shall not himself or through any other person indulge in any activity that would tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

c) The Applicant shall furnish the permanent address and contact details to the Inspector of Police, concerned Police Station and intimate the change, if any.

d) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

13. Needless to say, violation of any of the aforesaid conditions will make the Applicant liable for cancellation of

bail.

14. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

15. All the parties to act on an authenticated copy of this Order.

[R. N. LADDHA, J.]