

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.69 OF 2023

Kailas B. Jadhav

...Applicant

V/s.

State of Maharashtra

...Respondent.

Mr. Satyavrat Joshi a/w. Mr. Samay Pawar for the Applicant.

Mr. A.A. Palkar APP for the Respondent/State.

Mr. Sahil Salvi for the Complainant.

CORAM : N.R. BORKAR, J.
DATE : 18.04.2023.

P.C. :

1. This is an application under Section 439 of Code of Criminal Procedure for bail.
2. The applicant came to be arrested in Crime No.69 of 2021 registered at Kadegaon Police Station, Sangli for the offences punishable under Sections 302, 307, 324, 323, 504 and 506 read with 34 of the Indian Penal Code.
3. This is the second bail application. The first bail application was withdrawn on 14 November 2022. However, considering the facts and circumstances of the case, the trial Court was directed to conclude the trial as early as possible and in any case within a period of 9 months and if it is not concluded, liberty was granted to the applicant to move an application for bail before the trial Court.
4. Admittedly, the period of 9 months is not yet over.

5. I have heard the learned counsel for the applicant, the learned APP for the respondent – State and the learned counsel for the complainant.

6. There was a dispute between the deceased and the accused on account of agricultural land. According to the prosecution, on account of the said dispute the present applicant and other co-accused assaulted the deceased by stick and committed his murder.

7. The learned counsel for the applicant submits that according to the prosecution on the date of incident, which took place on 5 March 2021, dispute arose between the deceased and accused and thereafter the deceased was assaulted. It is submitted thus, at the most, it would constitute the offence punishable under Section 304 of the IPC. It is submitted that considering the facts and circumstances of the case and as the applicant is in jail for more than two years, the applicant may be released on bail.

7. On the other hand, the learned APP for the respondent/State and the learned counsel for the complainant submit that the applicant came to the spot of incident armed with stick and assaulted the deceased on his head by the said stick. It is submitted that this Court has already directed the trial Court to conclude the trial expeditiously. It is thus submitted that the applicant may not be released on bail.

8. The case is based on direct evidence. I have perused the statements of eye-witnesses. *Prima facie*, the incident does not appear to be premeditated as on the date of alleged incident, the present applicant came to the spot of incident armed with stick and then assaulted the deceased on his head. Considering the overall facts and circumstances, I am not inclined to release the applicant on bail. Hence, the Application is rejected.

[N.R.BORKAR, J.]