

VRJ

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

BAIL APPLICATION NO.501 OF 2023

Rohit Alias Dipak Ashok Patade	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Aniket Vagal for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

Mr. V. R. Mundhe, PSI, Bhadrakali Police Station,
Nashik is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 27, 2023

P.C.:

1. This is an application under section 439 of the Criminal Procedure Code, 1973, seeking bail in connection with C.R. No.129 of 2022 registered with Bhadrakali Police Station, District Nashik for offences punishable under sections 302, 397 read with section 34 of the Indian Penal Code, 1860 and section 135 of the Maharashtra Police Act.

2. According to the prosecution, on 20th May 2022 in the morning at 04:05 a.m. one Harish Bhaskar Patil (deceased) who was coming from Pune and walking towards his father's home situated near Fame Talkies, Nashik, the applicant along with other two co-accused were travelling by motorcycle. While deceased was crossing the road, the co accused dashed with the deceased

resulting in altercation of words between the deceased and co-accused Nadeem. The co-accused stopped his motorcycle. Nadeem and applicant ran behind the deceased. Nadeem assaulted him by sharp edged knife on his chest and other parts of the body. Nadeem and applicant got mobile of the deceased. They returned at the place of motorcycle and fled on the motorcycles of the co-accused. The investigating agency carried out investigation and filed charge sheet.

3. On perusal of the material on record, it appears that apart from extra judicial confession, CCTV footage of the incident has been placed on record. The applicant and other accused have been identified by one Ashok Hinge. Prosecution claims extra judicial confession made Ashok Hinge. The material on record prima facie indicates that the applicant did not assault the deceased. The material on record prima facie indicates that after altercation with the deceased, Nadeem and applicant ran behind the deceased. Nadeem came back after assaulting the deceased. The extra judicial confession has been attributed to Nadeem.

4. Though there are two antecedents, in absence of prima facie case, the antecedents in the facts of the case need not be considered to deny bail to the applicant. Apart from the aforesaid facts, two more circumstances are pointed out which are recovery of mobile phone and recovery of knife. However, considering the nature of assault, the evidentiary value of the circumstances needs to be decided during the trial.

5. The evidentiary value of extra judicial confession needs to be decided at the time of trial. However, on prima facie scrutiny of material on record, it appears that the applicant had not assaulted the deceased. The applicant has been arrested on 21th May 2022.

6. Considering the role attributed to the applicant, prima facie case is made out. Hence, following order:

a) The applicant shall be released on bail in connection with C.R. No.129 of 2022 registered with Bhadrakali Police Station, District Nashik for offences punishable under sections 302, 397 read with section 34 of the Indian Penal Code, 1860 and section 135 of the Maharashtra Police Act, on furnishing PR Bond in the sum of Rs.50,000/- each along with one or two sureties in the like amount.

b) The applicant shall mark his presence on first Saturday before the police station concerned between 11:00 a.m. to 02:00 p.m. of each month.

c) The applicant shall remain present before the Trial Court on each and every date unless exempted by the Trial Court.

d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence

collected or yet to be collected by the police;

7. The bail application is disposed of in above terms.

(AMIT BORKAR, J.)