



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

BAIL APPLICATION NO. 2113 OF 2023

VISHAL @ SONYA PRAKASH
WAGHMARE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Nagesh Khedkar a/w Adv. Prithviraj Deshmukh for the
Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 11, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302, 324, 323, 504, 143, 144, 147, 148, 149 of the Indian Penal Code and Sections 37(1) (3) read with 135 of the Maharashtra Police Act and Sections 4(25) and 27 of the Indian Arms Act and Sections 3 and 7 of the Criminal Law Amendment Act, registered on 26/10/2022 vide C.R. No.629 of 2022 with Bhosari M.I.D.C.

Police Station, Pimpri-Chinchwad.

3. For ease of convenience, the order dated 04/11/2023 in respect of co-accused Sahil Bapu Mhaske in Bail Application No. 3350 of 2023 is reproduced as under:

"1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 302, 324, 323, 504, 143, 144, 147, 148, 149 of the Indian Penal Code and Sections 37(1)(3) read with 135 of the Maharashtra Police Act and Sections 4(25) and 27 of the Indian Arms Act and Sections 3 and 7 of the Criminal Law Amendment Act, registered on 26/10/2022 vide C.R. No.629 of 2022 with Bhosari M.I.D.C. Police Station, Pimpri-Chinchwad.

3. There are in all 10 accused. The applicant is accused No.2. The alleged incident took place on 25/10/2022 at about 23.30 hrs. The accusation is that the accused have assaulted Pavan Vishnu Lashkare (the deceased). The accusations against the applicant are that the applicant assaulted the deceased with fists and kick blows. The cause of death is head injury. The accused- Akshay Kale is attributed the role of assaulting the deceased with a sharp age weapon called palghan. The co-accused Harshal Jadhav and Sonya Jadhav assaulted the deceased on the head with koytas. Accused Ganesh Shinde assaulted the deceased with a wooden log.

4. Learned APP opposed the application and submitted that having regard to the nature of injuries which are reflected in the post-mortem notes, the assault was done in a very brutal manner. Learned APP further submitted that a plea of alibi has been taken by the applicant which will be of no assistance as there are statements of the eye-witnesses.

5. The accusations against the applicant along with 3 others is assaulting the deceased with fists and blows. It is submitted by the learned counsel for the applicant that the applicant was arrested on 25/10/2022 and while in custody he appeared for B.B.A. course. The applicant was then granted temporary bail for the period of 5 days. The applicant has not misused the given liberty. Learned counsel for the applicant submits that there are no criminal antecedents reported against the applicant. Considering the fact that the applicant is now pursuing his education in M.B.A. degree course which exams are scheduled on 26/11/2023 and in the facts and circumstances of the present case, taking an overall view of the matter, the applicant can be enlarged on bail by imposing conditions. The investigation is complete and the charge-sheet has been filed. The applicant will face the consequences post-trial if found guilty."

4. The applicant can be enlarged on the ground of parity with the co-accused Sahil Bapu Mhaske. Learned counsel for the applicant, on instructions, submitted that the applicant is willing to reside outside the municipal limits of Pimpri Chinchwad Corporation after being enlarged on bail, till the conclusion of the trial.

5. Learned APP opposed the application and submitted that there are 2 criminal antecedents reported against the applicant. One criminal antecedent is of the year 2017 for the offence punishable under Section 307 of the IPC and

another antecedent is of the year 2019 for the offence punishable under Section 395 of the IPC, Sections 4(25) and 27 of the Arms Act and Section 37(1)(3) read with Section 135 of the Maharashtra Police Act.

6. Considering the facts and circumstances of the present case, the criminal antecedents themselves are not a factor for depriving the applicant facility of bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Vishal @ Sonya Prakash Waghmare in connection with C.R. No.629 of 2022 registered with Bhosari M.I.D.C. Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Bhosari M.I.D.C. police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade

him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the municipal limits of Pimpri-Chinchwad Corporation and the jurisdiction of Bhosari MIDC Police Station after being released on bail, till further orders of the trial Court.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

7. The application is disposed of.

(M. S. KARNIK, J.)