

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

BAIL APPLICATION NO. 3255 OF 2022

Ramkrushna Shivaji Waghmode ..Applicant
VS.
The State of Maharashtra ..Respondent

**WITH
BAIL APPLICATION NO. 3223 OF 2022**

Shivaji Vijay Gaikwad ..Applicant
VS.
The State of Maharashtra ..Respondent

Shri A.P. Mundargi, Senior Advocate i/b Devidas Jadhav for
the Applicant in BA no. 3223 of 2022.

Dr. Uday P. Warunjikar a/w Adv. Sonali R. Chavan for the
Applicant in BA No. 3255 of 2022.

Mr. S. V. Gavand, APP for the State.

H.N. Thakur, Velapur Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 30, 2023

P.C. :

1. Heard learned senior advocate Shri A.P. Mundargi,
learned counsel Dr. Uday P. Warunjikar and learned APP for
the State.

2. These are the applications for bail by the applicants-
Ramkrushna Shivaji Waghmode and Shivaji Vijay Gaikwad in

connection with C.R. No.29 of 2022 dated 16/02/2022, registered with Velapur Police Station, District Solapur, under sections 302, 364 and 34 of the Indian Penal Code, 1860 ("IPC", for short).

3. There are in all 4 accused. The applicant- Shivaji is accused no. 1 and the applicant - Ramkrushna is accused no. 3. Accused nos 2 and 4 have been granted bail by this Court by order dated 19/10/2022. The present applications are not on the ground of parity. The offence was registered on 16/02/2022. The incident took place in the night intervening 15/02/2022 and 16/02/2022. The father of the deceased lodged the First Information Report.

4. It is the allegation that the deceased - Bhalchandra had borrowed some money from the applicant - Shivaji. The deceased failed to pay the borrowed money. He was working in the field of one Ganesh Patil. Prior to 15/02/2022, it is alleged that the deceased had not reported for work and was not traceable. Along with the son of the deceased, the present applicants and others went in search of the deceased. The record reveals that the deceased was found in a drunk condition. It is alleged that the applicant -

Shivaji was angry with the deceased -Bhalchandra and told him that not only he didn't return the money but also did not report for work and that he needs to be taught a lesson. Bhalchandra was assaulted by the applicants. The post-mortem notes reveals that the deceased - Bhalchandra was assaulted on the legs and hands but not any vital part of the body. There are no fracture injuries. Injuries in the nature of contusions and abrasions are reported. The record further reveals it is the applicant who took the deceased to the hospital where he received some treatment and they was taken to another hospital.

5. In the present case, the investigation is complete and the charge-sheet has been filed. The applicants were arrested on 21/02/2022 and now are in custody almost for 11 months. No doubt that the applicants have assaulted the deceased but the record reveals that the assault was by a plastic pipe and the injuries are not on the vital parts of the body. The applicants wanted to teach the deceased a lesson and took law in their hands, but prima facie it appears that the intention was not to kill him. Furthermore, it is the applicants who took the deceased to the hospital for

treatment.

6. So far as the applicant - Shivaji is concerned, there are 3 criminal antecedents reported against him, one of them under sections 323, 326 of the IPC. In the facts of the present case, having regard to the antecedents, stringent conditions need to be imposed on the applicant-Shivaji. The applicant's brother, Samadhan V. Gaikwad, is present in the Court. Learned senior advocate Shri Mundargi on his instructions submits that the applicant- Shivaji is willing to stay out of the Solapur District till the trial is over as a condition for releasing him on bail. The statement is accepted.

7. So far as the applicant - Ramkrushna is concerned, there are no criminal antecedents. However, on instructions, learned counsel for the applicant submits that the applicant will stay out of the jurisdiction of Velapur Police Station till the trial is over. The statement is accepted. In this view of the matter, the applicants can be released on bail. Hence, the following order.

ORDER

(a) The applicants- Ramkrushna Shivaji Waghmode

and Shivaji Vijay Gaikwad in connection with C.R. No.29 of 2022, registered with Velapur Police Station, District Solapur, shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;

(b) The applicants shall report to the concerned police station once a month i.e. on first Monday of every month between 11.00 a.m. and 1.00 p.m.

(c) The applicants 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 applicants shall not tamper with evidence.

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

(e) The applicant- Shivaji Vijay Gaikwad shall not enter the Solapur District except for the purpose of attending Sessions Court at Malshiras and reporting to the Investigating Officer, till the trial is over.

(f) The applicant- Ramkrushna Shivaji Waghmode shall not enter the jurisdiction of the Velapur Police Station except for the purpose of reporting to the Investigating Officer, till the trial is over.

(M. S. KARNIK, J.)