

Arjun

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

BAIL APPLICATION NO.345 OF 2024

- | | | |
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| 1. | Yogesh Madan Kadam | ...Applicants |
| 2. | Gaurav Madan Kadam | |

Versus

The State of Maharashtra	...Respondent
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Mr. A. P. Mundargi, Senior Counsel i/b Sameer P. Nangare,
for the Applicant.

Ms. Veera Shinde, APP, for the Respondent-State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : FEBRUARY 08, 2024**

P.C.:

1. Heard Mr. Mundargi, learned Senior Counsel appearing for the Applicants and Ms. Shinde, learned APP appearing for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C. R. No.	61 of 2023
2	Date of registration of F.I.R.	20/03/2023
3	Name of Police Station	Patan Police Station, District-Satara
4	Section/s invoked	302, 307, 109, 114, 323, 504, 506 r/w 34

		of the <i>I.P.C., 1860</i> and 3, 25, 27 of the <i>Arms Act, 1959</i> .
5	Date of incident	19/03/2023
6	Date of arrest	20/03/2023
7	Date of filing Charge-sheet	04/07/2023

3. As per the prosecution case, there was some quarrel about 5 to 6 days ago between Sakharam Jadhav and Madan Narayan Kadam. In the said quarrel, the present Applicants were also involved and they assaulted the Complainant's cousin, Sakharam Jadhav by fist blows and therefore N. C. No.100 of 2023 was registered on 15th March 2023. The present incident occurred on 19th March 2023. As per the F.I.R., the Complainant and his elder brother Shrirang Laxman Jadhav, Satish Balu Sawant along with two-three persons came to the residence of Madan Narayan Kadam i.e. Accused No.1. The Accused No.2 is the wife of Accused No.1 and Accused Nos.3 and 4 i.e. present Applicants, are sons of said Madan Kadam. The Complainant and others went to the resident of Madan Kadam to confront him about the earlier quarrel regarding which the N. C. No.100 of 2023 is filed. At that time, some altercations took place between these two groups. Said Madan Kadam-Accused No.1 brandished a gun and fired and in the said incident, Shrirang Laxman Jadhav and Satish Balu Jadhav were killed and one Prakash Laxman Jadhav was injured.

4. It is the submission of Mr. Mundargi, learned Senior Counsel appearing for the Applicants that the main role is that of Accused No.1 and Accused No.2. He submitted that as far as Accused Nos.3 and 4 i.e. present Applicants are concerned, they were merely present and at the most they have assaulted by inflicting fist blows and kicks. He submitted that both the Applicants are very young, aged about 25 and 23 years, respectively. The Applicant No.2 is the student studying in 2nd Year of B.Com. Learned Senior Counsel submitted that the Applicants be enlarged on bail.

5. On the other hand, Ms. Shinde, learned APP strongly opposed the Bail Application. She submitted that the Applicants were present at the spot. In fact the earlier N. C. No.100 of 2023 also shows that they are habitual offenders. She submitted that they have taken active participation in the present incident also. She pointed out the statement of one Ganesh Bajirao Salunkhe who has stated that the Applicants were holding one person who was wearing a T-shirt and they were assaulting him and they were also filming the said incident.

6. Although *prima facie* there is substance in the contention raised by Ms. Shinde, learned APP that the role of the Applicants is something more than just assaulting by fist blows and kicks, however, perusal of the F.I.R. and the statements annexed to the Charge-sheet clearly shows that the main role is that of the

Accused Nos.1 and 2. The Accused No.1 has used a gun. The Applicants are very young, aged 25 and 23 years respectively. The Applicant No.2 is a student and he is studying in 2nd Year of B.Com.

7. In any case, the incident in question has taken place on 19th March 2023. The F.I.R. is registered on 20th March 2023. The Applicants are arrested on 20th March 2023. It is an admitted position that the investigation has been completed and the Charge-sheet has been filed on 4th July 2023. As per the Charge-sheet, there are a total of 52 witnesses. Till date even the charge is also not framed. The trial is likely to take a considerably long time.

8. Mr. Mundargi, learned Senior Counsel appearing for the Applicants states that as several witnesses are from District-Satara, the Applicants will therefore not reside within District-Satara and that the Applicants will reside at Kadam Niwas, Road No.28, Wagle Estate, Thane (W) - 400 604.

9. The Applicants do not appear to be at risk of flight.

10. Accordingly, the Applicants can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant No.1-Yogesh Madan Kadam and Applicant

No.2-Gaurav Madan Kadam be released on bail in connection with C. R. No.61 of 2023 registered with the Patan Police Station, District-Satara on their furnishing P. R. Bond of Rs.25000/- each with one or two solvent sureties in the like amount.

- (b) The Applicants shall not enter the Satara District after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial.
- (c) On being released on bail, the Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicants shall report to the Shrinagar Police Station, District-Thane once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. for three months and thereafter once in a month i.e. on the first Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Shrinagar Police Station, District-Thane to communicate details thereof to the Investigating Officer.
- (e) 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 such a person from disclosing the facts to the Court or to any Police personnel.
- (f) The Applicants shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.
- (g) The Applicants shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicants shall surrender their passport, if any, to the Investigating Officer.

11. The Bail Application is disposed of accordingly.

12. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits and uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]