

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.363 OF 2024**

Yusuf Mahammad Ali Surve ...Applicant
Versus
 The State of Maharashtra & Anr. ...Respondents

Ms. Farhana Shah, for the Applicant.
 Ms. Savita Yadav, APP, for the Respondent No.1-State.
 Mr. Mahindra Deshmukh, Amicus Curiae, for Respondent No.2.

**CORAM: MADHAV J. JAMDAR, J.
 DATED: 02nd APRIL 2024**

P.C.:

1. Heard Ms. Shah, learned Counsel for the Applicant, Ms. Yadav, learned APP for the Respondent No.1-State and Mr. Mahindra Deshmukh, learned *Amicus Curiae* appointed to represent Respondent No.2.
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.	5 of 2023
2	Date of registration of F.I.R.	07/02/2023
3	Name of Police Station	Dabhol Coastal, District-Ratnagiri
4	Section/s invoked	436, 452, 427, 323, 504 & 506 of the <i>I.P.C., 1860</i>
5	Date of incident	06/02/2023 - 07/02/2023
6	Date of arrest	08/02/2023
7	Date of filing Charge-sheet	04/05/2023

3. As per the prosecution case, the Applicant and Respondent No.2

got engaged. It appears that as the Applicant was a habitual alcoholic, there were disputes between the Applicant and Respondent No.2. At about 11.00 p.m. on 6th February 2023, the Applicant entered the house of Respondent No.2, and threatened the mother of Respondent No.2, and ransacked the household items. On 7th February 2023, when the Respondent No.2 had gone to the Police Station for lodging an F.I.R., the Applicant entered from the rear door of the Respondent No.2's house and set the house on fire. In the said fire, household items, grains, and two-wheeler etc. worth a total of Rs.7,00,000/- were destroyed.

4. Ms. Shah, learned Counsel for the Applicant submitted that the Applicant is incarcerated since 8th February 2023. The Charge-sheet has already been filed. There is no progress in the trial and even the charges are also not framed yet. She submitted that the incident in question took place as the Applicant acted emotionally. She submitted that however there was no motive to commit the offence in question. She has filed an Affidavit of the Applicant dated 30th March 2024. In the said Affidavit, the Applicant has stated that he is ready and willing to pay an amount of Rs.50,000/- in cash immediately to the Complainant and also to pay the balance amount of Rs.6,50,000/- which is the loss suffered by the Respondent No.2 and her mother, within a period of two years by making payment of Rs.15,000/- per month. She submits that in

any case the said balance amount of Rs.6,50,000/- will be paid to the Respondent No.2 within a period of 3 years from today. Ms. Shah, learned Counsel, on instructions, submitted that paragraph no.6 of the said Affidavit dated 30th March 2024 is deemed to be deleted. Accordingly, the statements in the said Affidavit dated 30th March 2024 are accepted subject to modification that the entire balance amount of Rs.6,50,000/- will be paid within a period of 3 years including payment of Rs.15,000/- per month in the account of Respondent No.2 and that the said amount will never be claimed.

5. Ms. Yadav, learned APP strongly opposed the Bail Application. She submitted that the Applicant has torched the house of the Respondent No.2 and her mother. She therefore submitted that the Bail Application be rejected.

6. Mr. Deshmukh, learned *Amicus Curiae* appointed to represent the Respondent No.2 submitted that Respondent No.2 and her mother have suffered extensive losses of even more than Rs.7,00,000/- but the *Panchanama* quantifies the same to the tune of Rs.7,00,000/-. He submitted that the Applicant is very aggressive person. He further submitted that the Respondent No.2 and her mother are in apprehension of danger to their safety even if the Applicant is released on bail. He submitted that the Respondent No.2 has shifted to Taloja, District-Raigad.

7. Ms. Shah, learned Counsel for the Applicant, on instructions, submitted that the Applicant will be residing at Dapoli, District-Ratnagiri and he will not enter Village-Taloja and Panvel City and also will not enter Village-Kolthare, Taluka-Dapoli, District-Ratnagiri.
8. The Applicant does not have any criminal antecedents.
9. It is an admitted position that investigation has been completed and that Charge-sheet has been filed on 4th May 2023. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.
10. The Applicant does not appear to be at risk of flight.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
12. In view thereof, the following order:-

ORDER

- (a) The Applicant-Yusuf Mahammad Ali Surve be released on bail in connection with C.R. No.5 of 2023 registered with the Dabhol Coastal Police Station, District-Ratnagiri on his furnishing P.R. Bond of Rs.10,000/- with one or two sureties in the like amount. The Applicant is permitted to furnish cash surety of Rs.10,000/- in lieu of surety for a period of one month.
- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

- (c) The Applicant shall not enter Panvel City including Taloja and also shall not enter Village-Kolthare, Taluka-Dapoli, District-Ratnagiri.
- (d) The Applicant shall report to the Dabhol Coastal Police Station, District-Ratnagiri once a week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.
- (e) 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 such a person from disclosing the facts to the Court or to any Police personnel.
- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

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

15. This Court places on record its appreciation for the assistance rendered by Mr. Mahindra Deshmukh, learned *Amicus Curiae* appointed to represent Respondent No.2.

[MADHAV J. JAMDAR, J.]