

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1170 OF 2024

Dndyandev Shankar Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Vaibhav R. Gaikwad, Advocate/s for the Applicant.

Mr. P.P. Deokar, APP for the Respondent-State.

Mr. Sanket Nitin Jamdade, P.C., Pusegaon Police Station, District-Satara,
present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 15th April 2024

P. C.

1. Heard Mr. Gaikwad, learned Counsel appearing for the Applicant and Mr. Deokar, 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 2015
2.	Date of registration of F.I.R.	15 th May 2015
3.	Name of Police Station	Pusegaon, Tal. Khatav, District-Satara
4.	Section/s invoked	302, 307, 326, 143, 147, 148, 149, 504, 506 of <i>Indian Penal Code</i> , 1860.
5.	Date of incident	15 th August 2015
6.	Date of arrest	18 th August 2015
7.	Date of filing Charge-sheet	2015

3. Mr. Gaikwad, learned Counsel appearing for the Applicant submitted that the Applicant is incarcerated for more than 8 years and 8 months. There are total 48 witnesses proposed to be examined by the prosecution, as per the Charge-sheet. He submitted that the co-Accused having same role is granted bail. He relied on the Order granting bail to Accused No.12-Ashok Mahipati Jadhav by a learned Single Judge of this Court (Coram: M.S. Karnik, J.) by Order dated 22nd December 2023 passed in Bail Application No.4136 of 2023. He also relied on the Order dated 7th February 2024 passed by this Court granting bail to Accused Nos. 9 and 10 in Criminal Bail Application No. 475 of 2024. He therefore submitted that the Applicant is entitled for bail.

4. On the other hand, Mr. Deokar, learned APP strongly opposed the Bail Application. He pointed out the statements of various witnesses and submitted that there are many eye-witnesses to the incident. He submitted that the present Applicant has specific role in the assault and therefore bail be not granted. He submitted that although as per the Charge-sheet 48 witnesses are mentioned, however, the prosecution proposes to examine only 19 witnesses. He submitted that 4 witnesses are already examined and 15 witnesses have remained to be examined.

5. Perusal of Order dated 22nd December 2023 passed by a learned Single Judge in the case of Accused No.12-Ashok Mahipati Jadhav shows that as the said Applicant was incarcerated since 16th August

2015 and as there is likely to be a delay in concluding the trial, the learned Single Judge has granted bail. The relevant part of said Order is paragraphs 3 to 5. The said paragraphs read as under:

"3. The date of the incident is 15.08.2015. There are in all 13 accused. The applicant is the accused No.12. The applicant was arrested on 16.08.2015. The applicant was armed with an axe. According to learned Counsel for the applicant, the applicant is not the main assailant.

4. Learned APP opposed the application for bail. Learned APP submitted that even the eye witnesses have specifically stated that they were assaulted by the applicant as well. These are matters which obviously will be gone into by the trial Court. Learned APP submitted that the trial has commenced and therefore this application should not be entertained.

5. I am informed that 2 witnesses have been examined. The prosecution proposes to examine 48 more witnesses. Learned APP submitted that it is not as if all the witnesses will be examined. The trial is not likely to conclude any time soon. The applicant is in custody for more than eight years and four months. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Considering the long incarceration of the applicant, I am inclined to enlarge the applicant on bail though learned APP opposed the application for bail."

6. Mr. Gaikwad, learned Counsel appearing for the Applicant is right in seeking parity on the basis of the above mentioned Order granting bail to Accused No. 12 as well as Order dated 7th February 2024 passed by this Court granting bail to Accused Nos. 9 and 10.

7. The factual position on record clearly shows that the Applicant was arrested on 18th August 2015 and oral depositions of only four witnesses are completed and balance 15 witnesses will be examined by the prosecution. Thus the trial is likely to take a considerably long time.
8. Mr. Gaikwad, learned Counsel appearing for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within Taluka-Khatav, District-Satara and that the Applicant will reside at the residence of Sanjay Tukaram Chavan, Patkhal, Taluka and, District- Satara.
9. The Applicant do not appears to be at risk of flight.
10. The Applicant does not have any criminal antecedents.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant-Dnyandev Shankar Jadhav be released on bail in connection with C.R. No.61 of 2015 registered with the Pusegaon Police Station, Taluka- Khatav, District- Satara on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter the Khatav, Taluka District-Satara 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 Applicant shall furnish his cell phone number and residential addresses to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Satara Taluka Police Station, District-Satara once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Satara Taluka Police Station, District-Satara to communicate details thereof to the Investigating Officer.

(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 evidence and shall not contact or influence the

Complainant or any witnesses in any manner.

(g) The Applicant shall attend the trial regularly.

The Applicants 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.

12. The Bail Application is disposed of accordingly.

13. 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.]