

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

BAIL APPLICATION NO.1472 OF 2024

Kapil Bajrang Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aditya S. Raktade (Through V. C.) a/w Mr. Anup Kamble & Mr. Santosh Mane, for the Applicant.

Mr. S. S. Chaudhari, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 09th MAY 2024

P. C.

1. Heard Mr. Raktade along with Mr. Kamble, learned Counsel for the Applicant and Mr. Chaudhari, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:

1	C.R. No.	158 of 2023
2	Date of registration of F.I.R.	03/04/2023
3	Name of Police Station	Hatkanangale, District-Kolhapur
4	Section/s invoked	302 r/w 34 of the <i>I.P.C., 1860</i>
5	Date of incident	03/04/2023
6	Date of arrest	03/04/2023
7	Date of filing Charge-sheet	22/06/2023

3. As per the prosecution case, the Applicant, the Deceased, Ajit Lokhande, and Manjunath Bhimsi Cotty are all friends. On 3rd April 2023, due to some dispute with the wife, Manjunath left his house and

he came along with Ajit Lokhande and the deceased Ramchandra Khilari. At that time, the deceased Ramchandra and said Ajit Lokhande were telling Jyoti and Manjunath that they should not quarrel and at that time, a child in conflict with law got into a quarrel with the deceased and they were abusing each other. In fact, a physical fight also started between them and therefore the mother-in-law and brother-in-law of Manjunath as well as Ajit Lokhande intervened and the said dispute was sorted out. Thereafter, due to the said quarrel in the morning, the said child in conflict with law was furious and he along with his cousin i.e. present Applicant assaulted the deceased at about 01.30 p.m. on 3rd April 2023. The child in conflict with law assaulted the deceased with an iron rod and the present Applicant assaulted the deceased with fist blows and the deceased succumbed to the resultant injuries.

4. It is the submission of learned Counsel for the Applicant that the main role is attributed to the child in conflict with law. He submitted that the incident in question had happened on a very trivial issue. He submitted that the scuffle which took place in the morning, had escalated and thereafter the incident in question had happened. He submitted that in any case, the role attributed to the present Applicant is that he had assaulted the deceased with fist blows. He submitted that the Applicant does not have any antecedent. He submitted that the

Applicant is aged only 20 years and therefore the Applicant be enlarged on bail.

5. On the other hand, Mr. Chaudhari, learned APP pointed out the statements of Jyoti Manjunath Cotty (Page No.79), Nagnath Krushnat Surawase (Page No.55) and Dipak Yashwant Patole (Page No.60). He also pointed out the statements of the witnesses recorded under Section 164 of the CrPC. He also pointed out the Post-Mortem Examination Report. In view of all these statements, he submitted that the Applicant had assaulted the deceased. He submitted that there is a recovery of clothes and a sickle at the instance of the Applicant. He therefore submitted that the Bail Application be rejected.

6. Perusal of the record shows that the incident in question took place on 3rd April 2023, F.I.R. was lodged on 3rd April 2023 and the Applicant was apprehended on 3rd April 2023. It is an admitted position that investigation has been completed and the Charge-sheet was filed on 22nd June 2023. There are a total of 20 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the charge is also not framed. Thus, the trial will take a considerably long time to conclude.

7. The statements of eye-witnesses which the learned APP had pointed out show that the Applicant had assaulted the deceased with fist blows. The child in conflict with law had assaulted the deceased

with a weapon. The Post-Mortem Examination Report records the cause of death as 'hemorrhagic shock due to cut throat injury'.

8. *Prima facie*, there is substance in the contention of learned Counsel for the Applicant that the Applicant had assaulted the deceased with fist blows and the death is due to assault by child in conflict with law on the deceased. The Applicant is a young man aged 20 years.

9. Mr. Raktade, learned Counsel for the Applicant states that as several witnesses are from Taluka-Hatkanangale, District-Kolhapur, the Applicant will therefore not reside within Taluka-Hatkanangale, District-Kolhapur and that the Applicant will reside at: Near Laxmi Mandir, Latwadi, District – Kolhapur, 416 143.

10. The Applicant does not have any criminal antecedents.

11. The Applicant does not appear to be at risk of flight.

12. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

13. In view thereof, the following order:

ORDER

(a) The Applicant - Kapil Bajrang Jadhav be released on bail in connection with C.R. No.158 of 2023 registered with the Hatkanangale Police Station, District – Kolhapur on his furnishing P.R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of two months in lieu of surety.

(c) The Applicant shall not enter Taluka – Hatkanangale, District –

Kolhapur after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.

(d) 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.

(e) The Applicant shall report to the Shirol Police Station, District – Kolhapur once in a month i.e. on first Sunday of every month between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Shirol Police Station, District – Kolhapur to communicate details thereof to the Investigating Officer.

(f) 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.

(g) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(h) 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.

14. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]