

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

BAIL APPLICATION NO. 2032 OF 2024

Dattatray Bharat Shinde

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rajendra Sorankar i/b Ketan Dabke for the Applicant.
Ms. S. S. Kaushik, APP for the State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 07.05.2024

P. C.:

1. Heard Mr. Sorankar, learned Counsel for the Applicant and Ms. Kaushik, learned APP 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.	429 of 2022
2.	Date of registration of F.I.R.	02.06.2022
3.	Name of Police Station	Mangalwedha
4.	Section/s invoked	302 of the I.P.C., 1860
5.	Date of incident	02.06.2022
6.	Date of arrest	02.06.2022
7.	Date of filing of Charge-sheet	11.08.2022

3. The prosecution case is that the deceased-Tushar used to stalk and follow the Applicant's minor niece. The niece of the Applicant was residing at Village-Bhimnagar, Taluka-Vatambre Sangola, District-Solapur with her family. The deceased Tushar was residing in the

same village and he used to stalk, follow, and harass her. He used to follow the girl to her school and also on her way home. At that time, the said girl was enrolled in the 7th Standard and was aged around 12 years. Due to such behaviour of the deceased, the parents of the girl and the Applicant raised the issue with the parents of the deceased-Tushar and the father of the deceased-Tushar tendered an apology for his son's mis-behaviour and he assured that his son would not repeat such acts. Thereafter, deceased-Tushar continued his mis-behaviour with the victim due to which the victim eventually consumed a poisonous substance. She was admitted to the I.C.U. at Taluka-Sangoli. Due to the said incident, the parents of the victim were to lodge a complaint with the Police. However, the parents of the deceased-Tushar requested and assured the parents of the girl that the deceased-Tushar would stop stalking the niece of the Applicant and therefore a complaint was not lodged. Thereafter, the family of the girl decided that the girl would start residing in the house of the Applicant, who is her matrimonial uncle and therefore the girl started residing at the house of the Applicant at Gunewadi, Taluka-Mangalweda.

4. The deceased was residing at Bhimnagar Vatambre Taluka-Sangola, District-Solapur. On 01.06.2022 at about 7 p.m. the deceased arrived at the said village-Gunewadi on the pretext that he was going to the house of his friend at Patkhal, Taluka-Mangalweda and he was hiding at village Gunewadi. On 01.06.2022, the Applicant

came after finishing his work at about 11.30 p.m.. At that time, he noticed that the deceased was standing with his niece and he therefore immediately went to his house, brought a knife and assaulted the deceased with it.

5. It is the submission of the learned Counsel for the Applicant that the incident in question had taken place on the spur of the moment. He submitted that the Applicant was arrested on 02.06.2022. Charge-sheet was filed on 10.08.2022 and therefore the Applicant be enlarged on bail. He submits that there are no antecedents.

6. On the other hand, Ms. Kaushik, learned APP strongly opposed the Bail Application. She submitted that the Applicant is involved in the offence in question and therefore the Application be rejected. She submitted that the trial has progressed substantially.

7. A perusal of the record shows that the incident in question took place on 01.06.2022. F.I.R. was lodged on 02.06.2022 and the Charge-sheet was filed on 11.08.2022.

8. As per the Charge-sheet, 33 witnesses are proposed to be examined by the prosecution. It is the contention of learned APP that the trial is at a very advanced stage.

9. Learned Counsel for the Applicant points out paragraph Nos.8 and 21 of the Order dated 05.03.2024 passed by Additional Sessions Judge, Pandharpur. Learned Counsel for the Applicant, on the basis of said Order dated 05.03.2024, submits that the trial will take a

considerable time.

10. There is substance in the contention of the learned Counsel for the Applicant that the incident has taken place on the spur of the moment. There is no premeditation and therefore the learned Counsel for the Applicant submits that the offence as alleged is not made out. Learned Counsel for the Applicant submits that the trial is delayed as the Applicant was not brought from the prison and was not produced before the Trial Court on 39 occasions.

11. The Charge-sheet has been filed and the investigation is completed. There are no criminal antecedents. The Applicant is aged about 36 years and he is an agricultural labourer. Accordingly, the Applicant is entitled to be released on bail.

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

13. In view thereof, the following order:

ORDER

(a) The Applicant - Dattatray Bharat Shinde be released on bail in connection with C. R. No.429 of 2022 registered with the Mangalwedha Police Station, Solapur Rural on his furnishing P R. Bond of Rs.10,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant is permitted to furnish cash bail surety in the sum of Rs.10,000/- for a period of four weeks in lieu of surety.

(c) 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.

(d) The Applicant shall report to the Mangalwedha Police Station, Solapur Rural, as and when called.

(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.

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.]