

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2633 OF 2024

Ajay @ Pilya Abhaykumar Kale ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Priyal G. Sarda a/w. Ms. Seema S. Dighe, Advocates, for the Applicant.
Ms. Savita M. Yadav, APP, for the Respondent-State.
Mr. B. H. Jagdale, Head Constable, Karad City Police Station, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 18th JULY 2024

PC:-

1. Heard Mr. Sarda, learned Counsel for the Applicant and Ms. Yadav, 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.	970 of 2021
2.	Date of registration of F.I.R.	25 th December 2021
3.	Name of Police Station	Karad, District-Satara
4.	Section/s invoked	307, 504, 506 & 34 of IPC, 1860

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5.	Date of incident	25 th December 2021
6.	Date of arrest	26 th December 2021
7.	Date of filing of Charge-sheet	26 th December 2021
8.	Sections Applied in Charge-sheet	302, 504, 506, 34 of IPC, 1860

3. As per the prosecution case, a previous rivalry existed between Accused No.1-Ajay *alias* Pilya Kale i.e. Applicant and the deceased-Sushant Katkar. The first informant and the deceased were watching a cricket match at the Shivaji Stadium in Karad. At that time, Accused No.1-Ajay Kale contacted them on their cellular phone and enquired about their location and then he too reached the said stadium. He told them that they would discuss about and settle an earlier dispute and on that pretext, all three arrived at the residence of one Vaijnath Jirage. Thereafter during the ensuing discussion, a heated argument broke out between Accused No.1-Ajay and the deceased. As per the prosecution case, Accused No.1-Ajay Kale brandished a knife from his jacket and inflicted an injury on the deceased. As far as the Accused No.2 is concerned, the role assigned to him is that he caught hold of the deceased from the rear side.

4. The incident in question took place on 25th December 2021. Initially the offence was registered under Section 307 of *Indian Penal Code, 1860* and as the deceased eventually succumbed to the injuries on 29th December 2021. Section 302 of *Indian Penal Code, 1860* has subsequently been invoked in the Charge-sheet.

5. Mr. Sarda, learned Counsel appearing for the Applicant submitted that even as per the prosecution case, there are inconsistencies in the statement of the Informant. Initially, the Informant has stated that the incident in question has occurred at the residence of one Vajinath Ashok Jirage i.e. Accused No.2 and thereafter, in the supplementary statement, the First Informant has stated that the incident in question occurred in an open space. He submitted that the Applicant has no antecedents. The incident in question if any, has occurred on the spur of the moment as a heated discussion was going on between the Applicant and the deceased. He submitted that the Applicant is incarcerated for about 2 years and 7 months and till date there is no progress in the trial except, framing of the charge. He therefore, submitted that the Applicant be released on bail.

6. On the other hand, Ms. Yadav, learned APP for the Respondent-State strongly opposed the Bail Application. She submitted that the main role is attributed to the Applicant. The Applicant has assaulted the deceased with a knife. There is recovery at the instance of the present Applicant. She submitted that therefore, the Bail Application be rejected. After taking instructions, she submitted that there are no antecedents against the Applicant and except framing of the charge, the trial has not proceeded further.

7. Perusal of record shows that the incident in question occurred on 25th December 2021. The Applicant was arrested on 26th December 2021 and Charge-sheet was filed on 26th February 2022 and there is no progress in the trial except framing of the charge. There are about 28 witnesses proposed to be examined by the prosecution. The Applicant is in custody since about 2 years and 7 months. The trial is likely to take a considerably long time.

8. There are no criminal antecedents against the present Applicant.

9. Mr. Sarda, learned Counsel appearing for the Applicant states that as most of the witnesses are from Taluka Karad, the Applicant will therefore not reside within Taluka -Karad and that the Applicant will reside at C/o. Asmita Prataprao Shinde, 806, Nrusinh Sadan, Gopalkrushna Path, Tal. Shirala, Dist. Sangli 415 408.

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 – Ajay @ Pilya Abhaykumar Kale be released on bail in connection with C.R. No.970 of 2021 registered with the Karad Police Station, Taluka - Karad, District – Satara on his furnishing P.R. Bond of Rs.50,000/- with one or two solvent sureties in the like amount.

- (b) The Applicant shall not enter Karad Taluka 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 address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Shirala Police Station, Taluka - Shirala, District - Sangli on every Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Shirala Police Station, Taluka - Shirala, District - Sangli 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 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 Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]