

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

BAIL APPLICATION NO. 3018 OF 2024

Sabu Girmal Khairav

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Umesh H. Pawar a/w. Mr. Sagar R. Sonawane, Advocates, for the Applicant

Ms. R. V. Newton, APP, for the Respondent – State

Ms. Tejaswini Patil, PSI, Sangli City Police Station present

CORAM : MADHAV J. JAMDAR, J.

DATE : 08.10.2024

P. C.

1. Heard Mr. Pawar, learned Counsel for the Applicant and Ms. Newton, 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.	205 of 2022
2.	Date of registration of F.I.R.	23/03/2022
3.	Name of Police Station	Sangli City Police Station, District - Sangli
4.	Section/s invoked	302, 201, 143, 147, 148, 149, 341, 323, 504 & 506 of the I. P. C., 1860
5.	Date of incident	22/03/2022

6.	Date of arrest	23/03/2022
7.	Date of filing of Charge-sheet	June, 2022

3. As per the prosecution case, the incident took place on 22nd March 2022 on the day of the festival of 'Rangpanchmi'. The witness - Shubham Gajanan Shinde is a friend of the deceased - Rohan Chandrakant Naik. After the festival was over, he along with the deceased went to consume beer at a place named 'Swad Bar' near Sangli Bus Stand. In the said bar, all 7 Accused persons, were also consuming beer and some altercation took place between the witness - Shubham Gajanan Shinde, the deceased, and the Accused.

4. As per the prosecution case, the Accused were insisting that the deceased must apologise to them for the altercation in said 'Swad Bar'. The deceased was refusing to apologise and as the Accused continued insisting for the same, witness - Shubham Gajanan Shinde apologised on behalf of the deceased and sent witness - Sanket Kamble and the deceased-Rohan Chandrakant Naik away on his motorcycle. However, it appears that all the Accused persons chased the said motorcycle on their vehicles and obstructed the said motorcycle after some time and assaulted the deceased with a chopper, knife, and also with fist blows. As per the prosecution case, the Applicant assaulted the deceased with a Chopper.

5. Mr. Pawar, learned Counsel submitted that there are a total of 7 Accused. Accused No.1-Raj Vishnu Patil, Accused No.4 - Umesh Suhas Patil and Accused No.5 - Shreyas Aashwin Shah were granted bail by the learned Trial Court. He submitted that Accused No. 3 - Sandesh Bajirao Pawar and Accused No. 7 – Riyaj Rajsahab Karajgi were granted bail by this Court and there is one child in conflict with law who is also involved in crime. He, therefore, submitted that out of the six Accused, four Accused have been granted bail. He further submitted that the incident in question took place when both, the Accused and the deceased were under the influence of alcohol and due to the quarrel which took place in the said 'Swad Bar' when all of them were consuming liquor. He further submitted that although the Applicant has been arrested on 23rd March, 2022 and Charge-sheet has been filed, there is no further progress in the trial except framing of the charge. He submitted that as per the prosecution case, there are 42 witnesses proposed to be examined by the prosecution. He submitted that there are two antecedents. As far as one antecedent i. e. C. R. No. 218 of 2020 registered with the Kavathe Mahankal Police Station, Sangli, all accused have been acquitted and he was child-in-conflict with law in that case. He submitted that as far as the 2nd antecedent is concerned i.e. C. R. No. 181 of 2021 registered with the Vishrambag

Police Station, Sangli for the offence punishable under Section 392 r/w. 34 of the I.P.C. for snatching mobile from the Informant. He submitted that in that case also the Applicant has been granted bail.

6. On the other hand, Ms. Newton, learned APP strongly opposed the Bail Application. She submitted that there are eye-witnesses to the incident. She pointed out the statements of Mr. Shubham Gajanan Shinde (Page No. 275), Mr. Sanket Vikas Kamble (Page No. 277) and Mr. Abhishek Rajendra Sawant (Page No. 279) recorded under Section 164 of the Code of Criminal Procedure. She submitted that these statements clearly show that the Applicant is involved in a serious crime and the Applicant had assaulted the deceased with Chopper. She also pointed out the panchnama regarding CCTV footage and submitted that the same clearly shows that the Applicant had played major role in the incident in question. She also pointed out recovery panchanama recorded under Section 27 of the Indian Evidence Act (Page Nos. 294 to 296) and submitted that the motor cycle and the chopper have been recovered from the Applicant. She submitted that the entire incident has been captured on C. C. T. V. and the present Applicant has assaulted the deceased with a Chopper. She, therefore, submitted that the Bail Application be rejected.

7. However, perusal of the record shows that the incident in question occurred on 22nd March 2022, F. I. R. was lodged on

23rd March 2022 and the Applicant was apprehended on 23rd March 2022. Although, the Applicant is incarcerated for almost two years and eight months, there is no progress in the trial except framing of the charge. As per the Charge-sheet, there are a total of 42 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

8. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ In this case, as the trial will take considerable time to conclude, the Applicant is entitled for bail.

9. As most of the witnesses are from District – Sangli, Mr. Pawar, learned Counsel for the Applicant, on instructions, states that the Applicant will therefore not reside within District - Sangli and that the Applicant will reside at the residence of Mr. Avadhut Shrikant Jondhale, R/o. 14/627, Baznagar, Shatkon Chowk, Ichalkaranji, Taluka – Hatkanangale, District – Kolhapur – 416 115, the Applicant will attend the Shivaji Nagar Police Station, Ichalkaranji and the Applicant will not enter District – Sangli, till the conclusion of the trial.

¹ Hussainara Khatoun (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

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:-

O R D E R

- (a) The Applicant - **Sabu Girmal Khairav** be released on bail in connection with C. R. No.205 of 2022 registered with the Sangli City Police Station, District - Sangli on his furnishing P. R. Bond of Rs. 25,000/- with two local solvent sureties in the like amount;
- (b) The Applicant shall not enter the District - Sangli 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 Shivaji Nagar Police Station, Ichalkaranji 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 the Shivaji Nagar Police Station, Ichalkaranji 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.]