

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

BAIL APPLICATION NO. 3071 OF 2024

Dhiraj Ramesh Thorat

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Viresh V. Purwant a/w. Fareha Rizvi & Mr. Vijay R. Garad,
Advocates, for the Applicant
Mr. C. D. Mali, APP, for the Respondent – State

CORAM : MADHAV J. JAMDAR, J.

DATE : 13.11.2024

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1. Heard Mr. Purwant, learned Counsel appearing for the Applicant and Mr. Mali, learned APP appearing for the Respondent-State.
2. This is the Second Bail Application filed by the Applicant in connection with C. R. No. 158 of 2024 registered with the Tembhurni Police Station, District – Solapur (Rural). The earlier Bail Application No. 2039 of 2024 was rejected by this Court by Order dated 07.05.2024, as the same was filed before filing of the Charge-sheet. By the said Order dated 07.05.2024, liberty has been given to the Applicant to file a fresh Bail Application after filing of the Charge-sheet before the learned Sessions Judge. Accordingly, the B. A. No. 361 of 2024 was filed by the Applicant before the learned Additional Sessions

Judge, Barshi, District – Solapur and the same was rejected by the learned Additional Sessions Judge, Barshi, District – Solapur by Order dated 10.07.2024.

3. The relevant details are as follows:-

1.	C. R. No.	158 of 2024
2.	Date of registration of F.I.R.	24.03.2024
3.	Name of Police Station	Tembhurni Police Station, District – Solapur
4.	Sections invoked	307, 326, 323, 120(b), 143, 147, 148, 149 of I. P. C. & U/sec. 3, 25, 27 of the Arms Act, 1959, And U/sec. 135 of the Bombay Police Act, 1951, And U/sec. 39, 45 of the Maharashtra Money-Lending (Regulation) Act, 2014
5.	Date of incident	24.03.2024
6.	Date of arrest	25.03.2024
7.	Date of filing of Charge-sheet	June, 2024

4. The prosecution case is set out in paragraph No. 2 of the Order dated 10.07.2024 passed by the learned Additional Sessions Judge, Barshi, District – Solapur which reads as under :-

“The factual matrix of the prosecution case is that, the Complainant Rahul Mahadev Pawar is permanent resident of Tembhurni, Tal. Madha, Dist. Solapur. He is doing a business of selling of vegetable. In the year 2016, one Ramesh Thorat was running Bhishi. The Complainant was borrowing the money from him with interest. Therefore, he was having good relations with him. In the year 2017, he had taken the loan amount of Rs. 6,00,000/- from him with interest @ 5% for releasing the land of his father-in-law. He had returned the amount of

Rs. 5,40,000/- to Ramesh Thorat. Further, it is alleged that, during the period of lock-down, his business was stopped, due to that, he could not repay the remaining amount along with interest to him. Thereafter, in the year 2021, the Complainant had taken the amount of Rs. 2,00,000/- from him for vegetable business. In April, 2023, Ramesh Thorat passed away and the Applicant was coming to him for collection of interest amount. The Complainant had given the amount of Rs. 1,00,000/- to the Applicant in the presence of Vishal Kale and Vijay Yadav. He also paid some amount to him through on line. However, the Applicant was demanding of Rs. 12,00,000/- from him. At that time, the Complainant told him that, he has been paid the said amount to his father and agreed to pay the balancing amount to him. But, the Applicant was not in a position to listen it. He was demanding of Rs. 12,00,000/- from him. In the meeting held with Babaraje Bobade, the Applicant threatened to kill him for his money. Further, it is alleged that, on 24.03.2024 at about 5.40 pm, the Complainant was selling the vegetable from his shop, at that time, five unknown persons entered in his shop. Out of them, two persons were holding the pistol in their hand. One person fired two shots in the air and other person fired a bullet on him with intent to kill him and it was hit in his thigh. At that time, third person who was holding a sickle in his hand assaulted him on his head and caused grievous hurt. Due to that, blood was oozing from his head. At that time, other two persons assaulted him with hand. After listening the voice of quarrel, the people gathered there. Thereafter, they ran away from that place. At that time, the Complainant realized that the said persons committed the attack on him at the instigation of the Applicant on account of non giving of his money. Thereafter, the Complainant lodged the report to Tembhurni Police Station. On his report, Crime No. 158 of 2024 came to be registered against the Applicant and five unknown persons for the offences punishable under sections 307, 326, 323, 120(b), 143, 147, 148, 149 of the Indian Penal Code, sec. 135 of the Maharashtra Police Act, sec. 3, 25 & 27 of the Arms Act and sec. 39 & 45 of the Money Lending Act.”

5. Mr. Purwant, learned Counsel for the Applicant submitted that the material against the Applicant is the three statements i.e. statement of Yogesh alias Babaraje Krishnat Bobade dated 14.05.2024 (Page No. 154), statement of Satish Waman Newase dated 14.05.2024 (Page No. 155) and statement of Somnath Siddheshwar Tabe dated 14.05.2024 (Page No. 156). Mr. Purwant, learned Counsel for the Applicant submitted that investigation is completed and Charge-sheet is filed. He submitted that in the FIR, insofar as the incident of assault on the injured is concerned, no role has been attributed to the Applicant except his involvement in the conspiracy to assault the injured. He submitted that the Applicant had not participated in the actual assault. He submitted that there is no evidence to that effect except the aforesaid three statements according to which some altercation took place between the present Applicant and the injured on 27.02.2024 in the office of the Bharatiya Janata Party. He submitted that the actual incident took place on 24.03.2024 i. e. almost a month after the said altercation. He submitted that there is no incriminating circumstance against the present Applicant. He submitted that the Applicant has no antecedents. He, therefore, submitted that the Applicant may be released on bail.

6. On the other hand, Mr. Mali, learned APP for the Respondent – State strongly opposes the Bail Application. The Respondent – State by

filing an affidavit of Mr. Kuldip Vijay Sontakke, PSI, Tembhurni Police Station, Solapur (Rural) dated 12.11.2024 strongly opposed the Bail Application. In the said Affidavit, details of the investigation carried out by the investigating officer are set out. Mr. Mali, learned APP submitted that apart from the statements which are on page Nos. 154 to 156, there is a statement of Prashant Jalinder Tamtame dated 26.03.2024 (Page Nos. 152 & 153). Mr. Mali, learned APP for the Respondent – State submitted that the statement of Prashant Jalinder Tamtame dated 26.03.2024 (Page Nos. 152 & 153) is also relevant. He has also submitted that the statements which are recorded from page Nos. 143 to 153 of various witnesses are also relevant. He, therefore, submitted that as the Applicant is the main conspirator and as there is sufficient material on record showing his involvement in the crime, the Bail Application be rejected.

7. A perusal of the record shows that the statement of the injured i. e. Rahul Mahadev Pawar dated 24.03.2024 on the basis of which FIR has been lodged does not show that the Applicant had actually participated in the incident of assault. However, in the FIR, it is stated that as Rs. 12,00,000/- had remained to be paid to Mr. Ramesh Thorat i. e. father of the present Applicant, the incident in question took place. The statements on page Nos. 154 to 156 show that some altercation had taken place between the present Applicant and the injured on

27.02.2024 in the office of the Bharatiya Janata Party. The incident in question took place after about one month i. e. on 24.03.2024.

8. In any case, Charge-sheet has been filed in June, 2024. As per the Charge-sheet, the prosecution proposes to examine about 84 witnesses. Mr. Purwant, learned Counsel for the Applicant submitted that there is no progress in the trial and even the charge is also not framed. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

9. 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 The Applicant’s detention continues, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial. Therefore, the Applicant is entitled to be released on bail by imposing certain conditions.

10. Mr. Purwant, 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 District - Solapur and that the Applicant will reside at the residence of

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

Mr. Shivaji Dyandev Mehtre, R/o. Mehtre Wasti, Malwadi No. 1, Indapur and will attend the Indapur Police Station, Taluka – Indapur, District – Pune.

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

12. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant - **Dhiraj Ramesh Thorat** be released on bail in connection with C. R. No. 158 of 2024 registered with the Tembhurni Police Station, District – Solapur on his furnishing P. R. Bond of Rs. 50,000/- with one or two local solvent sureties in the like amount;

(b) The Applicant shall not enter District – Solapur 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 Indapur Police Station, Taluka - Indapur, District – Pune 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 Indapur Police Station, Taluka - Indapur, District – Pune 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 observations made herein are *prima facie* and the trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]