

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

**BAIL APPLICATION NO. 3599 OF 2023**

Abhishek @ Gaurav Shivaji Yadav

...Applicant

vs.

The State of Maharashtra

...Respondent

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|                                                  |                              |
|--------------------------------------------------|------------------------------|
| Mr. Kuldeep Patil i/by Mr. Aadesh Konde Deshmukh | Advocate for the Applicant   |
| Mr. H. J. Dedhia                                 | APP for the Respondent-State |

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**CORAM : S. M. MODAK, J.**

**DATE : 07<sup>th</sup> MAY 2024**

**P. C. :-**

1. Heard learned Advocate Shri Kuldeep Patil for the Applicant and learned APP Shri Dedhia for Respondent-State.

2. Initially, an offence is registered with Khandala Police Station on 13/12/2021 under Sections 279, 304 (a), 337 and 338 of the Indian Penal Code and under Section 184 of the Motor Vehicles Act. The first informant is Omkar Prakash Pawar. He deposed that while he alongwith his father Prakash and brother-Prashant were riding the motor cycle and they met with an accident. Brother-Prashant expired.

Later on the Police realized that act of lodging the complaint by Omkar is outcome of the pressure put on them by the accused including the present Applicant. The genesis of the dispute is about abusing of one Vaishnavi by first informant and other family members. The accused who are the relatives of the said Vaishnavi. Vaishnavi informed this fact to them. Vaishnavi married to a person outside the community and religion. The accused person in order to teach the first informant and others a lesson, took them at various places and beat them with the help of weapons. They themselves shifted them to hospital. During treatment, Prakash expired. The present Applicant is one of the assailant. In order to cover up this incident, even the accused persons have compelled the first informant and others to confess about relationship with Vaishnavi.

3. When these facts were subsequently disclosed, the Police have converted an offence into Section 302 of the Indian Penal Code. Accused were arrested and also charge-sheeted.

4. The role alleged against the Applicant is one of the assailant and even he has recorded the confession in his mobile and it is transferred into Pen drive. Learned APP pointed out those observations from the

Order dated 08/09/2023, para no. 14.

5. Whereas according to learned Advocate Mr. Kuldeep Patil several accused were granted bail and one of them is Sachin @ Bandu Namdev Yadav in Bail Application No. 2216 of 2023, dated 27/03/2024.

6. It is true that it never happens that materials collected against all accused are similar, broadly we have to see their roles and we have to see whether till conclusion of the trial, they need to be detained in jail. No doubt the statement of the witnesses of Omkar and Prakash have deposed the involvement of this Applicant. The papers also disclosed the recording by this Applicant and mobile phone. However on basis of these materials, we cannot detain the Applicant in jail til completion of the trial. One of the circumstance is quoted to show his bonafide is this Court on 20/12/2023 granted temporary bail for attending the examination and it is fact that he has surrendered. Therefore with conditions, bail can be granted. Hence the Order:

### **ORDER**

(i) Bail Application is allowed.

(ii) The Applicant-Abhishek @ Gaurav Shivaji Yadav arrested in

connection with C.R. No. 159 of 2021 registered with  
Khandala Police Station for the offence punishable under  
Sections 143, 147, 148, 149, 302, 307, 326, 324, 347, 120-B,  
201, 504 and 506 of the Indian Penal Code be released on bail  
on furnishing Personal bond and Surety bond in sum of Rs.  
50,000/-.

- (iii) Applicant shall not enter the village Khandala, Taluka Satara  
till conclusion of the trial.
- (iv) Applicant not to threaten the prosecution witnesses.

7. Bail Application is disposed of.

[S. M. MODAK, J.]