

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

BAIL APPLICATION NO.3740 OF 2023

Sujit Rajaram Shinde

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi i/b Ashish S. Vernekar, Advocates for the Applicant.

Mr. P. H. Gaikwad, APP, for the Respondent-State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : JANUARY 18, 2024**

P.C.:

1. Heard Mr. Joshi, learned Counsel appearing for the Applicant and Mr. Gaikwad, learned APP for the Respondent-State.

2. By way of the present Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973* the Applicant is seeking regular bail in connection with C. R. No. 661 of 2022 registered with Sangli City Police Station, District-Sangli on 29th September 2022 for offences punishable under Sections 302 and 506 read with Section 34 of the *Indian Penal Code, 1860* (“**IPC**”). The Applicant was arrested on 29th September 2022 in connection with said C. R. No. 661 of 2022.

3. At the outset, it is to be noted that the Applicant was

released on bail about 20 days earlier before the commission of the present crime. The Applicant was arrested on 3rd August 2022 in connection with C. R. No. 339 of 2022 registered with Vishrambag Police Station, Sangli for offences punishable under Sections 307, 323, 324, 143, 147, 148, 504, and 506 read with Section 34 of the IPC and Section 37(1), 37(3) and 135 of the *Maharashtra Police Act, 1951* and Sections 4 and 25 of the *Arms Act, 1959*. In the aforementioned other case, as per the prosecution case, the Applicant along with a co-accused and a child in conflict with law entered the N.C.C. room of the KWC College, Sangli and assaulted the said Informant at multiple locations on his body with a knife. It is pertinent to note that as per the prosecution case, the Applicant and the co-accused are not students enrolled in the KWC College and that they are all students enrolled at a different college namely the Willingdon College, Vishrambag, Sangli. Further, the Applicant and the co-accused entered the KWC College, Sangli armed with multiple weapons and with a clear intention to assault the informant with the said weapons due to a dispute with the brother of the Informant. In that crime, the Applicant was released on bail by Order dated 7th September 2022 passed in Criminal Bail Application No. 823 of 2022 by learned Additional Sessions Judge, Sangli. In the said Order granting bail the learned Sessions

Court has observed that as per the prosecution case the Applicant has dealt a single blow with a knife on the head of the Informant and the said injury is of simple nature. Mr. Joshi, learned Counsel appearing for the Applicant submitted that the Applicant was actually released from custody on 9th September 2022.

4. It is significant to note that within 20 days after the Applicant being released on bail, i.e. on 29th September 2022 the present offence was committed, which is punishable under Sections 302 and 506 read with Section 34 of the IPC. The Charge-sheet has been filed on 24th December 2022. As per the prosecution case, the Applicant along with other two accused has committed murder of one Ajit Baburao Angadgiri.

5. The prosecution case as reflected from the F.I.R. and the statements of witnesses are as under:-

Due to previous enmity at the college, the relations between the Applicant and the deceased were strained. The Applicant resides at 100 Feet Road, Devendra Housing Society, Shamrao Nagar, Taluka and District-Sangli and for committing the crime the Applicant and other two accused travelled to Karnal-Padmale Road, Taluka-Miraj, District-Sangli. The Applicant and two co-accused travelled on a motorcycle and they went to meet Prasanna Sukumar Kininge, residing at Malgaon,

Kokane Galli, Taluka-Miraj, District-Sangli for obtaining the address of the deceased. At that time, one Rohan Kamble was present there and he called the deceased to obtain information about his whereabouts and the deceased told him that he was at their Pan shop and thereafter he said that he was at his farm. Thereafter the Applicant along with the other two co-accused drove to the said Pan shop where the brother of the Applicant i.e., Informant-Rohit Babural Angadgiri was present. The Accused inquired about the whereabouts of the deceased. The Informant informed them that the deceased is at the farm. Thereafter they went to the said farm where one Suraj was working along with the deceased and his mother. At that time one accused held the deceased and other two accused inflicted the knife blows. There are about 4 eye-witnesses in the present case and all of them identified the Applicant in the Test Identification Parade. There is recovery of blood stained clothes at the instance of the Applicant.

6. It is the submission of Mr. Joshi, learned Counsel appearing for the Applicant that as per the prosecution case, the role of the Applicant is that he only held and restrained the deceased and that the actual assault had been perpetrated by the other two co-

accused with a knife. He also submitted that said deceased had obstructed the Applicant's sister and expressed his feelings for her and made a proposal to her which infuriated the Applicant and therefore, the incident occurred in a fit of rage. Mr. Joshi, learned Counsel has raised certain contentions regarding the Test Identification Parade, however the same can be raised in the trial.

7. As per the settled legal position, the following parameters are *inter alia* required to be taken into consideration for granting bail:-

- (i) the nature and gravity of the circumstances in which the offence is committed;
- (ii) the position and the status of the accused with reference to the victim and the witnesses;
- (iii) the likelihood of the accused fleeing from justice;
- (iv) tampering with witnesses;
- (v) the history of the case as well as of its investigation.

It is also a settled legal position that at the stage of consideration of the bail application, the Court is not required to enter into a detailed analysis of the evidence in the case.

8. The Hon'ble Supreme Court in the decision of ***Ram Govind Upadhyay v. Sudarshan Singh***¹, has held as follows :-

"4. Apart from the above, certain other which may be

¹ (2002) 3 SCC 598

attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

*(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but **there ought always to be a prima facie satisfaction of the court in support of the charge.***

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

(Emphasis added)

9. As per the prosecution case, the Applicant is the main conspirator. This is a case where the incident had occurred in an open field in the presence of witnesses. Before the incident the accused were searching for the deceased and for that purpose went to different locations. The Applicant and two co-accused went to Miraj in search of the deceased and thereafter came to the farm which falls within the jurisdiction of Sangli Police

Station. *Prima facie* there is no material to support the contention of Mr. Joshi, learned Counsel that the crime took place in a fit of rage. There is recovery of blood stained clothes at the instance of the present Applicant.

10. As set out herein above, the Applicant was released on bail in C. R. No. 339 of 2023 *inter alia* for offence punishable under Section 307 of IPC on or about 9th September 2022. The present offence punishable under Section 302 of IPC has been committed within 20 days. Therefore, this is not a fit case where the Applicant deserves to be enlarged on bail.

11. As there are antecedents and the position on record shows that the Applicant is likely to make an attempt to influence the witnesses, this is not a case where bail can be granted to the Applicant.

12. However, as the Applicant is incarcerated since 29th September 2022, the learned Trial Court is requested to expeditiously conclude the trial. The Applicant is at liberty to file fresh Bail Application after one year in case there is no substantial progress in the trial.

13. Accordingly, the Bail Application is dismissed, subject to above.

[MADHAV J. JAMDAR, J.]