

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3721 OF 2023

Dattajirao Sarjerao Thorat .Applicant
Versus
The State of Maharashtra .Respondent

Mr. Kuldeep U. Nikam, Advocate, for the Applicant
Ms. Veera Shinde, APP, for the Respondent – State

CORAM: MADHAV J. JAMDAR, J.
DATE: 29.01.2024

P. C.

1. Heard Mr. Nikam, learned Counsel appearing for the Applicant and Ms. Shinde, learned APP appearing 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.	196 of 2023
2.	Date of registration of F.I.R.	01.06.2023
3.	Name of Police Station	Kagal Police Station, District-Sangli
4.	Sections invoked	201, 302 r/w. 34 of <i>I.P.C.</i> , 1860
5.	Date of incident	01.06.2023
6.	Date of arrest	02.06.2023
7.	Date of filing Charge-sheet	24.08.2023

3. As per the prosecution case, as reflected in the F.I.R. and

the statements of the witnesses, the Applicant has two sons – Amarsinh and Abhijit. The deceased – Amarsinh was pursuing higher education and was enrolled in the second year of the Law course at Kolhapur. Earlier, the Applicant had sent the deceased – Amarsinh to Pune for preparation of M.P.S.C. and U.P.S.C. entrance examinations but he could not succeed in the said examinations. The deceased – Amarsinh was a habitual alcoholic. After the death of the deceased – Amarsinh, in the incident in question, a gunny bag of empty liquor bottles was found in the flat at Kolhapur where he was staying. His room partner, Mr. Avdhut Kulkarni stated that the deceased – Amarsinh used to rarely visit and whenever he visited his room, he was found to be under the influence of alcohol. The prosecution case further revealed that the deceased – Amarsinh used to frequently demand money from the Applicant, who is his father by threatening him and other family members. He would state that his other brother – Abhijit would be killed, if his father failed to pay him the money. It appears that on 30.05.2023, the Applicant came from Kolhapur to his residence near Hanuman Mandir, Gothkhind, Taluka – Walwa, District – Sangli. In the midnight, when some altercation took place, the Applicant-father of the deceased, killed the deceased – Amarsinh with an iron rod.

4. It is the contention of Mr. Nikam, learned Counsel

appearing for the Applicant that the incident in question had occurred in a spur of the moment and that there is no provocation. He further submitted that Charge-sheet has been filed and there are 51 witnesses to be examined by the prosecution. Therefore, bail may be granted to the Applicant.

5. Ms. Shinde, learned APP vehemently opposes the Bail Application on the ground that although the case is of circumstantial evidence, the circumstances are incriminating. After the deceased was killed, an attempt was made to destroy the evidence. She pointed out the statements of Dattatraya Ramchandra Patil and Mahadev Dhondiram Kumbhar. She also relied on extra judicial confession.

6. A perusal of the record shows that the incident in question had occurred on 01.06.2023. Charge-sheet has been filed on 24.08.2023.

7. Perusal of the statements of witnesses as contained in Charge-sheet and the material on record show that *prima facie*, there is substance in the contention of learned Counsel appearing for the Applicant that the incident in question had occurred in a spur of the moment as the deceased-son of the Applicant had demanded money from the Applicant. The deceased was a habitual alcoholic.

8. Mr. Adhik Balasaheb Thorat, who is accused No.3 and

brother of the deceased has been granted bail by a learned Single Judge (Coram : M. S. Karnik, J.) by Order dated 30.10.2023 passed in B. A. No. 3020 of 2023 and the Co-Accused - Abhijit Dattajirao Thorat has been granted bail by the learned Additional Sessions Judge, Kolhapur by Order dated 06.11.2023 passed in B. A. No. 912 of 2023.

9. It is an admitted position that the investigation has been completed and that the Charge-sheet has been filed on 24.08.2023. There are 51 witnesses as per the Charge-sheet proposed to be examined by the prosecution. The trial is likely to take a considerably long time. The Applicant does not have any criminal antecedents.

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

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

ORDER

(a) The Applicant - Dattajirao Sarjerao Thorat be released on bail in connection with C. R. No.196 of 2023 registered with the Kagal Police Station, District - Kolhapur on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) 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.

(c) The Applicant shall report to the Kagal Police Station, District-Kolhapur on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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.

(e) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

12. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]