



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3887 OF 2023

Harilal Triloki Rajbhar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ajit M. Savagave, Advocate for the Applicant.

Ms. S. S. Kaushik, APP for the Respondent-State.

Mr. D. H. Gaware, PSI, Vengurla Police Station present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 25th JANUARY 2024

P. C.

1. Heard Mr. Savagave, learned Counsel appearing for the Applicant and Ms. Kaushik, 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.	88 of 2022
2. Date of Registration of F.I.R.	12/09/2022
3. Name of Police Station	Vengurla Police Station, District-Sindhudurg
4. Section/s invoked	307, 326 r/w. 34 of I.P.C., 1860

5.	Date of Incident	12/09/2022
6.	Date of Arrest	02/12/2022
7.	Date of filing Charge-sheet	01/03/2023

3. As per the prosecution case, the Applicant and his brother Madan i.e. the co-accused, prior to the incident used to work in Goa. At that time, the Applicant and the co-Accused - Madan used to abuse the injured - Ramatpesha Rajbhar. Thereafter, the injured started working in the farm of Mr. Vinayak Atmaram Rane at Sonsure, Aravali, Taluka-Vengurla. Although, there are disputes between the Applicant, his brother and the injured, they are friends and the Applicant and his brother used to visit the injured. In the night of 11th September 2022, the Applicant, his brother and the injured consumed liquor. The incident occurred in early morning of 12th September 2022 in which the Applicant assaulted the injured with a knife when the injured was sleeping.

4. It is the submission of Mr. Savagave, learned Counsel appearing for the Applicant that the investigation is completed and Charge-sheet is filed but there is no progress in the trial. He submitted that the Applicant before arrest was working in Goa as a

construction labourer. He therefore submitted that by imposing stringent conditions, the Applicant be released on bail.

5. Ms. Kaushik, learned APP appearing for the Respondent-State submitted that a major role is attributed to the present Applicant as he has assaulted the injured with a knife. She further submitted that the Applicant was apprehended from Uttar Pradesh. She submitted that the offence in question is punishable under Section 307 of the *Indian penal Code, 1860* for a minimum of 10 years and the Applicant has been incarcerated only for 13 months. She submitted that the Applicant will not be available for the trial. She further submitted that the Accused No.2 and the Applicant are siblings and Accused No.2 is absconding therefore the trial could not be started. She also submitted that the injuries are on the vital part of the body.

6. However, it is to be noted that in the present case, the Applicant has been arrested on 2nd December 2022 and the Charge-sheet has been filed on 1st March 2023. As per the Charge-sheet, there are 13 witnesses to be examined in this case. The Accused No.2 is absconding. There is no progress in the trial. It appears that no attempt is made to separate the trial from the absconding Accused No.2 and to continue the trial against the present Applicant.

7. Before the incident, the Applicant was working as a construction labourer at Goa. The Applicant is married and is having a family. He is the sole earning member of his family. There are no criminal antecedents against the present Applicant. Mr. Savagave, learned Counsel appearing for the Applicant further states that the Applicant will reside in Sindhudurg District and that the Applicant shall attend the trial regularly on each and every date.

8. It is an admitted position that the investigation has been completed and that the Charge-sheet has been filed on 1st March 2023. There are 13 witnesses as per the Charge-sheet. The trial is unlikely to conclude any time soon and is likely to take a considerably long time. There are no criminal antecedents against the present Applicant and it appears that the incident has occurred when the Applicant was under the influence of alcohol.

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

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

ORDER

(a) The Applicant-Harilal Triloki Rajbhar be released on bail in connection with C. R. No.88 of 2022 registered

with the Vengurla Police Station, Taluka-Vengurla District-Sindhudurg on his furnishing P R. Bond of Rs.10,000/- with two 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 Vengurla Police Station, Taluka-Vengurla District-Sindhudurg on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Vengurla Police Station, Taluka-Vengurla, District-Sindhudurg to communicate details thereof to the Investigating Officer.

(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.

11. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]