

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.120 OF 2024

Shubham Ashok Shendage	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Kunal V. Patil (through Video Conference), Advocate, for the Applicant.

Ms. Savita M. Yadav, APP, for the Respondent-State.

Mr. V. R. Dange, Head-Constable, Rajarampuri Police Station, District-Kolhapur, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 3rd MAY 2024

PC:-

1. Heard Mr. Patil, learned Counsel for the Applicant and Ms. Yadav, learned APP 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.	449 of 2022
2.	Date of registration of F.I.R.	05/09/2022
3.	Name of Police Station	Rajarampuri, District-Kolhapur
4.	Sections invoked	302 r/w. IPC, 1860

5.	Date of incident	05/09/2022
6.	Date of arrest	05/09/2022
7.	Date of filing of Charge-sheet	29/11/2022

3. As per the prosecution case, the incident in question took place on or about 4th September 2022. A Ganesh pandal was setup in the locality of the Applicant. The present Applicant went in the said Pandal and it was noticed by witnesses-Rohit Prakash Indulkar and Jitendra Raosaheb Shinde that there was some blood on his legs and therefore they inquired regarding the same. At that time, the Applicant disclosed that he and other co-Accused asked a person on road for tobacco and that person refused to give tobacco and therefore, both of them assaulted that person with a stone and a bamboo stick.

4. It is the contention of Mr. Patil, learned Counsel for the Applicant that the entire prosecution case is based on circumstantial evidence. He submitted that except an extra-judicial confession, there is no other incriminating material against the Applicant. He submitted that in any case, the incident in question has taken place on the spur of the moment. He submitted that the

Applicant is a young man aged 25 years. He submitted that there are no criminal antecedents against the Applicant and therefore he submitted that the Applicant be released on bail.

5. On the other hand, Ms. Yadav, learned APP for the Respondent-State strongly opposed the Bail Application. She submitted that although the case is of circumstantial evidence, there are strong circumstances against the Applicant. She pointed out the statements of witnesses-Rohit Prakash Indulkar and Jitendra Raosaheb Shinde and the F.I.R. and prayed that Bail Application be rejected.

6. Perusal of the record shows that in the present case, the incident in question occurred on 5th September 2022, F.I.R. was lodged on 5th September 2022, the Applicant was arrested on very day i.e. on 5th September 2022 and, Charge-sheet was filed on 29th November 2022. There is no progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there are 56 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

7. The case is of circumstantial evidence. *Prima facie*, there is substance in the contention raised by Mr. Patil, learned Counsel for the Applicant that except an extra-judicial confession and circumstance that blood was found on his legs, there is no incriminating material against the Applicant.

8. *Prima facie*, there is substance in the contention raised by Mr. Patil, learned Counsel for the Applicant that even if entire case of the prosecution is accepted then also the incident has taken place on the spur of the moment and there was no pre-meditation.

9. There are no criminal antecedents against the present Applicant.

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

11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

12. In view thereof, the following order:

ORDER

- (a) The Applicant - Shubham Ashok Shendage be released on bail in connection with C.R. No.449 of 2022 registered with the Rajarampuri Police Station, District - Kolhapur on his furnishing PR. Bond of Rs.15,000/- with one or two local 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 Rajarampuri 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 prosecution evidence and shall not contact or influence the Complainant or any witness 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.

13. The Bail Application is disposed of accordingly.

14. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]

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