

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

CRIMINAL BAIL APPLICATION NO.93 OF 2024

Sunny *alias* Shannu Sudam Gade

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Savvy Kolhekar i/by Mr. Aniket Vagal, Advocate/s for the Applicant.

Ms. Veera Shinde, APP for Respondent-State.

Vishal Jagannath Shinde, PSI - Vimaltal Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 28th February 2024

P. C.

1. Heard Ms. Kolhekar, 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.	105 of 2021
2. Date of registration of F.I.R.	4 th April 2021
3. Name of Police Station	Vimantal, Pune, District-Pune
4. Section/s invoked	302, 506(2), 34 of <i>Indian Penal Code, 1860</i> ; 4 r/w 25 of <i>Arms Act, 1959</i> ; 37(1)(3) of <i>Bombay Police Act, 1951</i> .
5. Date of incident	3rd April 2021
6. Date of arrest	4th April 2021
7. Date of filing Charge-sheet	30th June 2021

3. As per the prosecution case, Accused No.2-Shabnam Shaikh *alias* Tanvi Waghela and the deceased were in a relationship outside of marriage. There are total four accused. All accused and the deceased are friends. The incident in question took place on 3rd April 2021. All accused and deceased were going together to several locations and were consuming liquor. They were travelling by an auto-rickshaw and car.

4. Statements of various witnesses recorded during the investigation show that the incident in question has taken place in a spur of the moment. In fact, the statement of witness - Nadar Changej Irani (Page-129) shows that the deceased tried to strangle the Accused No.2 and therefore, the Accused No.2 assaulted the deceased with a wooden log and in that quarrel, the present Applicant brought a sickle from the car and assaulted the deceased.

5. Ms. Shinde, learned A.P.P. strongly opposed the Bail Application. She submitted that the videos captured on the cell-phone of Accused No.2 - Shabnam Shaikh shows that all the Accused and deceased were present together on the very same day at least from 6.00 p.m. till the incident took place. She submitted that there is recovery of sickle, clothes and mask at the instance of the present Applicant. She submitted that there are

30 injuries on the body of the deceased. She submitted that the statement of various witnesses show that there is an extra-judicial confession by the Accused No.2, where the role of the Accused No.1 i.e. the present Applicant is specified, i.e. the Applicant has assaulted the deceased with a sickle. She therefore submitted that the Bail Application be rejected.

6. Perusal of record shows that the incident has taken place on 3rd April 2021, F.I.R. was lodged on 4th April 2021. The Charge-sheet was filed on 30th June 2021. Learned Counsel appearing for the Applicant submitted that there is no progress in the trial, and even the Charge is not framed yet. The Accused No.2 - Shabnam Shaikh and Accused No.4 - Salim Murtuja Shaikh are already enlarged on bail.

7. *Prima facie*, the incident has taken place in a spur of the moment and when the Applicant and deceased were under the influence of the liquor. The trial is likely to take a considerably long time.

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

9. The Applicant does not have any criminal antecedents.

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

ORDER

(a) The Applicant- Sunny *alias* Shannu Sudam Gade be released on bail in connection with C. R. No.105 of 2021 registered with the Vimantal Police Station, District-Pune 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 Vimantal Police Station, District- Pune on Sunday of every week 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.

11. The Bail Application is disposed of accordingly.

12. It is clarified that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]

Note: Modified as per Speaking to Minutes of the Order dtd. 19th March 2024.