

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

CRIMINAL BAIL APPLICATION NO. 206 OF 2024

Suresh Shrimant Birajdar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ritesh Thobde a/w Ankita Rai, Changdev Shingade and Zubi Ansari, Advocates, for the Applicant.

Mr. Vishwanath Patil for Intervenor.

Mr. S.S. Chaudhari, APP, for Respondent-State.

Changonda G. Dhangonde, P.N. B.-No.1712, Akkalkot South Police Station, District Solapur, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 8th April 2024

P. C.

1. Heard Mr. Thobde, learned Counsel for the Applicant, Mr. Chaudhari, learned APP for the Respondent-State and Mr. Patil, learned Counsel for the Informant.

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.	338 of 2023
2.	Date of registration of F.I.R.	31 st May 2023
3.	Name of Police Station	Akkalkot South, District-Solapur
4.	Section/s invoked	307, 324, 504, 506 of <i>I.P.C., 1860</i> ; and 3/25 of the <i>Arms Act, 1959</i> .

5.	Date of incident	30 th May 2023
6.	Date of arrest	31 st May 2023
7.	Date of filing of Charge-sheet	17 th August 2023

3. The prosecution case is that the Applicant is the brother of Co-Accused-Vijaykumar Shrimant Birajdar and the injured is the Applicant's cousin. As per the prosecution case, there was a boundary dispute going on between these two families. On 30th May 2023 at about 2.00 p.m., the Informant and others were fixing the boundaries in the uncle's field and at that time, the Applicant and Co-Accused i.e. the brother of the present Applicant obstructed, abused, and threatened the Informant and others. Thereafter at about 5.30 p.m., when the Informant along with his brother and mother were sitting in front of their house, at that time, the Applicant came there and abused them in obscene and filthy language and threatened to kill the Informant, if he entered their field, and also fired two rounds from his pistol. The Informant therefore threw a piece of brick towards the present Applicant, who then fled and during the said scuffle, the Applicant's pistol fell on the ground and the Applicant entered a room in the agricultural field of one Mahadev. At that time, other Co-Accused came there with a sickle and assaulted the Informant. Accordingly, the F.I.R. was lodged on 31st May 2023.

4. Mr. Thobde submitted that this is a case where there are cross-complaints. He pointed out the Injury Certificate of the injured and

submitted that the injuries are simple in nature. He pointed out F.I.R. No.339 of 2023 lodged on 31st May 2023 by the family of the Applicant. He also pointed out the injuries suffered by the Applicant. There is an ongoing civil litigation between them, therefore the Informant held a grudge and therefore the Applicant has been falsely implicated. On taking instructions, he submitted that as most of the witnesses are from Khanapur, Taluka Akkalkot, the Applicant will reside at Mandur, At Post Nandur, Taluka- Mangalwedha, Solapur-District. There are no antecedents.

5. On the other hand, Mr. Patil, learned Counsel for the Informant strongly opposed the Bail Application. He submitted that although the incidents are not reported to the Police, due to long drawn civil litigation, the Applicant assaulted the Informant and his family members on many occasions. However, due to the relations, the same was not reported to the Police. He submitted that the Co-Accused-Vijaykumar has been released on bail by the learned Sessions Judge, however, he has thereafter threatened the Informant and his family members.

6. Perusal of the record shows that there was a long drawn civil litigation between the parties, and the incident in question took place when the Informant and his family members were fixing the boundaries. There are cross-complaints. As far as the Injury Certificate

is concerned, the same shows that the injuries are of simple in nature. The Charge-sheet is already filed.

7. In view of the apprehension expressed by the learned Counsel for the Informant that if the Applicant is released on bail, he would try to threaten them, Mr. Thobde, learned Counsel for the Applicant submitted that the Applicant will reside at C/o Suryakant Apparaya Patil, Mandur, At Post Nandur, Taluka-Mangalwedha, District Solapur and the Informant is residing at Akkalkot Taluka.

8. As far as the contention that the Applicant's brother i.e. Co-Accused after release on bail has threatened the Informant, appropriate steps can be taken by the Informant. However, that cannot be a ground for rejecting the Bail Application of the Applicant.

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

10. The Applicant does not have any criminal antecedents.

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

12. In view thereof, the following order:-

ORDER

(a) The Applicant - Suresh Shrimant Birajdar be released on bail in connection with C.R. No.338 of 2023 registered with the Akkalkot South Police Station, District - Solapur on his furnishing P.R. Bond of Rs.25,000/- with one or two loal

solvent sureties in the like amount.

(b) The Applicant shall not enter the Taluka Akkalkot, District-Solapur after being released on bail, except for reporting to the Investigating Officer, if called.

(c) 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.

(d) The Applicant shall report to the Mangalwedha Police Station, District - Solapur once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Mangalwedha Police Station, District- Solapur to communicate details thereof to the Investigating Officer.

(e) 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.

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

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

(h) 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 observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]