

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

CRIMINAL BAIL APPLICATION NO. 228 OF 2024

Tapin Dilip Vishwakarma

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ganesh Gupta a/w Deepak Gupta, Sahil Ghorpade, Jagrut Patil and Madan Khansole, Advocates, i/by G.G. Legal Associates, for the Applicant.

Mr. Sameer M. Mangaonkar, APP, for Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 19th March 2024

P. C.

1. Heard Mr. Gupta, learned Counsel for the Applicant and Mr. Mangaonkar, 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.	953 of 2021
2.	Date of registration of F.I.R.	7 th November 2021
3.	Name of Police Station	Hadapsar, District-Pune
4.	Section/s invoked	302, 307, 323, 504, 34 of <i>I.P.C., 1860</i> ; and 37(1), 135 of <i>Bombay Police Act, 1951</i> .
5.	Date of incident	6 th November 2021
6.	Date of arrest	7 th November 2021
7.	Date of filing Charge-sheet	4 th February 2022

3. As per the prosecution case, the incident in question took place on 6th November 2021. There are three Accused. The present Applicant is Accused No.1. On 6th November 2021, all the Accused were consuming liquor in a ground from 8.00 p.m. to 10.15 p.m. It appears that some altercations took place between the Accused and deceased-Sitaram Khandu Shinde and the Applicant assaulted the deceased with a knife.

4. It is the contention of Mr. Gupta, learned Counsel appearing for the Applicant that the incident in question took place on the spur of the moment. He submitted that all co-accused were consuming liquor and some altercations took place between the Accused persons and the deceased and in that altercation, the Applicant assaulted the deceased. He submitted that there was no premeditation. He submitted that the Applicant is a young man aged 19 years. There are no antecedents and therefore, the bail may be granted. He submitted that one of the co-accused, Niranjana Chitranath Yogi has been granted bail by a learned Single Judge (N.R. Borkar, J.) by Order dated 24th January 2023 passed in Bail Application No. 2485 of 2022. He submitted that the case is of circumstantial evidence.

5. On the other hand, Mr. Mangaonkar, learned APP vehemently opposed the Bail Application and pointed out the statement of witness-Ramesh Tukaram Vishwakarma (Page-71). He submitted that there is

recovery of knife and blood-stained clothes at the instance of the Applicant. He submitted that although the case is of circumstantial evidence, there is sufficient material against the Applicant and therefore, the Bail Application may be rejected. After taking instructions, he also submitted that the Applicant has no antecedents.

6. Perusal of the record shows that the incident in question took place on 6th November 2021, F.I.R. was lodged on 7th November 2021 and the Applicant was apprehended on 7th November 2021. The Charge-sheet was filed on 4th February 2022. Till date there is no progress in the trial. As per the Charge-sheet, there are 25 witnesses proposed to be examined by the prosecution. Accordingly, the trial is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention of Mr. Gupta, learned Counsel for the Applicant that the incident in question took place on the spur of the moment.

8. There are no criminal antecedents.

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

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

11. In view thereof, the following order:-

ORDER

(a) The Applicant - Tapin Dilip Vishwakarma be released on bail in connection with C. R. No.953 of 2021 registered with the Hadapsar Police Station, District - Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two local 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 Hadapsar Police Station, District - Pune 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 prosecution 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.

12. The Bail Application is disposed of accordingly.

13. 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.]