

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2349 OF 2023

Ramkishan @ Narsing Harihar Nishad ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.210 OF 2024
IN
BAIL APPLICATION NO.2349 OF 2023

Pramodkumar Kuberram Jeshawar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Kunal N. Pednekar a/w Divesh Mehani i/b Mr. Aniket Vagal,
for the Applicant.

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

Mr. Vivekanand V. Krishnan, for the Intervenor.

CORAM : MADHAV J. JAMDAR, J.
DATED : JANUARY 31, 2024

P.C.:

1. Heard Mr. Pednekar, learned Counsel appearing for the Applicant, Ms. Kaushik, learned APP appearing for the Respondent-State and Mr. Krishnan, learned Counsel appearing for the Intervenor.

2. This Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C. R. No.	11 of 2023
2	Date of Registration of F.I.R.	18/01/2023
3	Name of Police Station	Satpur Police Station, Nashik
4	Section/s invoked	302 & 34 of the <i>I.P.C., 1860</i>
5	Date of incident	17/01/2023
6	Date of arrest	18/01/2023
7	Date of filing Charge-sheet	16/04/2023

3. As per the prosecution case, there was some previous enmity between the Accused No.1-Rajkumar *alias* Munna Harihar Nishad and cousin brother of the deceased i.e. Lakhankumar Ramdulare. It appears that on account of the said enmity, the Accused No.1 had earlier threatened Lakhankumar.

4. The Applicant is the Accused No.2. The deceased Santoshkumar is the cousin brother of Lakhankumar. As Lakhankumar decided to come to Nashik for work, the deceased had intervened and the said dispute between the Accused No.1 and said Lakhankumar was resolved. Thereafter, when Lakhankumar came to Nashik and when he was walking on road adjacent to the house of Accused No.1, Accused No.1 abused said Lakhankumar and, therefore, some altercations took place between both of them. At that time also the deceased Santoshkumar had intervened and resolved the said dispute.

5. On 17th January 2023 at 10:45 p.m., the informant-Pramodkumar who is also a cousin brother of said Lakhankumar

was in the house, heard a commotion and when he came out, he saw both the Accused assaulting Lakhankumar. At that time also cousin Santoshkumar was trying to resolve the dispute. In the said commotion, Accuse No.1 assaulted Santoshkumar on his head with an iron rod and the present Applicant i.e. Accused No.2 assaulted said Santoshkumar with fist blows and kicks and eventually said Santoshkumar succumbed to his injuries.

6. It is the contention of Mr. Pednekar, learned Counsel appearing for the Applicant that the Applicant has been arrested on 18th January 2023 and the Charge-sheet has already been filed and there is no progress in the trial. He submitted that even if the prosecution case is accepted then also the role attributed to the present Applicant is that he has assaulted the deceased with fist blows and kicks. He submitted that there is no antecedents. He further submitted that most of the witnesses are from Nashik District and if the Applicant is released on bail, he will reside at his brother-in-law's place i.e. C/o. Jagdishprasad Kamalprasad Kewat Rathi, Near Hanuman Nagar, Trimuti Nagar, Tulshetpada, Bhandup (West), Mumbai-400 078.

7. Ms. Kaushik, learned APP strongly opposed the Bail Application and submitted that there are eye-witnesses to the incident. She submitted that therefore the Application be rejected.

8. Mr. Vivekanand Krishnan, learned Counsel appearing for the Intervenor submitted that there are eye-witnesses to the incident. The Applicant is not a permanent resident of Maharashtra and he is permanent resident of Uttar Pradesh. He further submitted that if the bail is granted there is likelihood that the Applicant will not be available for trial. He submitted that if the bail is granted to the Accused No.2 i.e. present Applicant benefit will also be sought by Accused No.1 who has played a major role in the offence. He submitted that if the Court is inclined to grant the bail then stringent conditions be imposed.

9. A perusal of the record shows that the incident in question occurred on 17th January 2023. The F.I.R. has been lodged on 18th January 2023. The Applicant has been arrested immediately on 18th January 2023 and the Charge-sheet has been filed on 16th April 2023. As per the Charge-sheet there are about 23 witnesses to be examined by the Prosecution.

10. A perusal of the prosecution case clearly shows that the dispute is between the Accused No.1 and said Lakhankumar. The role attributed to the present Applicant is that he has assaulted the deceased with fist blows and kicks. The postmortem report shows that the deceased died due to Cerebral damage due to blunt trauma to the head. The major role in the incident has been attributed to the Accused No.1.

11. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 16th April 2023. As per the Charge-sheet there are 23 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.

12. The Applicant does not have any criminal antecedents.

13. Mr. Pednekar, learned Counsel appearing for the Applicant states that as several witnesses are residing in the District Nashik and also at Uttar Pradesh, the Applicant will reside at C/o. Jagdishprasad Kamalprasad Kewat Rathi, Near Hanuman Nagar, Trimuti Nagar, Tulshetpada, Bhandup (West), Mumbai-400 078. He will not leave Mumbai City without the leave of the learned Trial Court.

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

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

ORDER

- (a) The Applicant-Ramkishan *alias* Narsing Harihar Nishad be released on bail in connection with C. R. No.11 of 2023 registered with the Satpur Police Station, District-Nashik on his furnishing P. R. Bond of Rs.25000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the Nashik City after being released on bail, except for reporting to the Investigating

Officer, if called and for attending the trial.

- (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 Bhandup Police Station, Mumbai Suburban district 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 Bhandup Police Station, Mumbai 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 evidence and shall not contact or influence the Complainant or any 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.

16. The Bail Application is disposed of accordingly.

17. In view of disposal of the Bail Application, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]