

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.271 OF 2024

Harshvardhan Mahesh Shejerao ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Vikrant V. Phatate, for the Applicant.

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

CORAM : MADHAV J. JAMDAR, J.
DATED : MAY 03, 2024

P.C.:

1. Heard Mr. Phatate, 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 Applicant is Accused No.2. The relevant details are as follows:-

1	C.R. No.	55 of 2023
2	Date of registration of F.I.R.	05/02/2023
3	Name of Police Station	M.I.D.C., District-Solapur
4	Section/s invoked in F.I.R.	302, 143, 147, 148 & 149 of the <i>I.P.C., 1860</i>
5	Date of incident	04/02/2023
6	Date of arrest	05/02/2023
7	Date of filing Charge-sheet	03/05/2023
8	Section/s applied in Charge-sheet	302, 120-B & 201 r/w 34 of the <i>I.P.C., 1860</i> ; 4 & 25 of the <i>Arms Act, 1959</i> .

3. Mr. Phatate, learned Counsel for the Applicant submitted that the Applicant has been incarcerated since 5th February 2023. He submitted that Accused No.1, to whom a major role has been attributed in the offence in question, has been released on bail by Order dated 19th December 2023 passed by a learned Single Judge [M. S. Karnik, J] in Bail Application No.4023 of 2023. He therefore, claims parity. He submitted that on the basis of said Order, this Court has granted bail to Accused No.3. He submitted that there are 2 witnesses from the same locality in which the Applicant and the deceased were residing. However, they have not identified the Applicant. He submitted that in the facts and circumstances, this is a fit case where the Applicant can be enlarged on bail.

4. Mr. Mangaonkar, learned APP strongly opposed the Bail Application. He submitted that there is strong evidence against the Applicant. There was a motive for committing the offence and therefore the Applicant is not entitled to be released on bail. Mr. Mangaonkar, learned APP has pointed out statement of Anil Somnath Patangrao (Page 141) i.e. father of the deceased, and submitted that the Bail Application be rejected.

5. Perusal of the record shows that the F.I.R. was lodged on 5th February 2023 and immediately on 5th February 2023 the Applicant was apprehended. The Charge-sheet was filed on 3rd May 2023. As per

the Charge-sheet, there are a total of 30 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.

6. Learned Single Judge [M. S. Karnik, J] by Order dated 19th December 2023 passed in Bail Application No.4023 of 2023 granted bail to the Accused No.1-Mahesh Shivaji Shejerao. The relevant portion of paragraph Nos.3, 4 and 5 of the said Order is as under:

"3. The date and time of the alleged incident is 04/02/2023 at around 10.30 p.m. According to is the eyewitnesses' statement which is at page Nos. 127 and 128 of the paperbook and recorded on 08/02/2023, two persons carrying an iron rod and a sword assaulted the victim brutally. There are in all 7 accused. The applicant is accused No.1.

4. Learned APP while opposing the application invited my- attention to the statement of the brother of the deceased recorded under Section 164 of the Cr.P.C. on 01/03/2023. It is stated by him that from those persons present at the spot of the incident, he came to know that the present applicant along with Harshwardhan Shejerao, Shrikant Koli and other 4 to 5 unknown persons assaulted the deceased. The brother of the deceased was further informed that it is the present applicant, Harshwardhan Shejerao and Shrikant Koli who brutally assaulted the deceased. It is further submitted that there is an audio recording at page No. 110 of the paperbook. From the audio recording, it appears that the deceased was saying that he was being assaulted by goons of Shejerao.

5. There are eyewitnesses who do not name the

applicant. There is no test identification parade conducted. Nothing has been recovered at the instance of the present applicant. The version of the applicant's brother is hearsay."

7. This Court has also, on the basis of Order passed in the case of Accused No.1, released Accused No.3 on the ground of parity by Order dated 5th February 2024 passed in Bail Application No.2079 of 2023. Therefore, the Applicant is entitled to be released on bail on the ground of parity.

8. Mr. Phatate, learned Counsel for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within the limits of Solapur City and also shall not enter the jurisdiction of the M.I.D.C. Police Station, Solapur. He states that the Applicant will therefore reside at Village-Sangdari, Taluka-South Solapur, District-Solapur.

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

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

ORDER

- (a) The Applicant - Harshvardhan Mahesh Shejerao be released on bail in connection with C.R. No.55 of 2023 registered with the M.I.D.C. Police Station, District-Solapur on his furnishing PR. Bond of Rs.25000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the Municipal limits of

Solapur City and the jurisdiction of the M.I.D.C. Police Station, Solapur 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 i.e. outside the limits of Municipal limits of Solapur City and also the jurisdiction of the M.I.D.C. Police Station, to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Solapur Taluka Police Station, District-Solapur once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Solapur Taluka 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 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.

- 11.** The Bail Application is disposed of accordingly.
- 12.** It is clarified that the trial Court shall decide the case on its merits and uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]