

Arjun

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

BAIL APPLICATION NO.420 OF 2024

Vishal Dhanaji Waghmode

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Prashant C. Mohite a/w Gurunath R. Sawant, for the Applicant.

Ms. Veera Shinde, APP, for the Respondent-State.

Mr. Sandesh Palande, API, Virar Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : FEBRUARY 13, 2024

P.C.:

1. Heard Mr. Mohite, 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.	718 of 2023
2	Date of registration of F.I.R.	23/07/2023
3	Name of Police Station	Virar Police Station
4	Section/s invoked	302 r/w 34 of the <i>I.P.C., 1860</i>

5	Date of incident	23/06/2023- 24/06/2023
6	Date of arrest	23/07/2023
7	Date of filing Charge-sheet	18/10/2023

3. As per the prosecution case, Jay Sable, victim was a habitual alcoholic. He has taken money from many people by giving false assurance that they would be given employment. The Applicant and 3 others Accused have assaulted the deceased with kicks and fist blows and the deceased has succumbed to the resultant injuries.

4. It is the contention of Mr. Mohite, learned Counsel appearing for the Applicant that the incident happened in a spur of the moment when the Applicant and other Accused were demanding the money which the deceased had taken. He submitted that the Applicant is very young, aged 25 years and that he is a Auto-Rickshaw driver and that he is the only earning member of his family. He submitted that investigation is complete and Charge-sheet has been filed on 18th October 2023 and that there is no further progress in the trial.

5. On the other hand, Ms. Shinde, learned APP strongly opposed the Bail Application. She submitted that there are eye-witnesses to the incident and the Applicant and other Accused had mercilessly assaulted the deceased.

6. A perusal of the material on record shows that the incident in question has taken place on 23rd June 2023. The offence was registered on 23rd July 2023 and the Applicant was apprehended on 23rd July 2023. The investigation is complete and Charge-sheet is filed on 18th October 2023. There is no further progress in the trial and even the charge is also not framed. As per the Charge-sheet there are a total of 25 witnesses proposed to be examined by the prosecution. Therefore, it is unlikely that the trial will conclude shortly and it will take a considerably long time.

7. The Applicant is aged 25 years and he is an Auto-Rickshaw driver.

8. As per the prosecution case, the Applicant and other Accused have assaulted the deceased with fist blows and no weapon is used.

9. The Applicant does not have any criminal antecedents.

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

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

ORDER

- (a) The Applicant-Vishal Dhanaji Waghmode be released on bail in connection with C. R. No.718 of 2023 registered with the Virar Police Station, District-Palghar on his

furnishing P.R. Bond of Rs.15,000/- with one or two 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 Virar Police Station, District-Palghar once in a month i.e. 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 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 own merits and uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]