

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 475 OF 2024

Sameer Mohan Jadhav & Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr. Vaibhav R. Gaikwad, Advocate/s for the Applicants.

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

Mr. S.B. Yeole, P.S.I., Pusegaon Police Station, District-Satara, present

CORAM : MADHAV J. JAMDAR, J.

DATED : 7th February 2024

P. C.

1. Heard Mr. Gaikwad, learned Counsel appearing for the Applicants and Ms. Kaushik, 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.	61 of 2015
2.	Date of registration of F.I.R.	15 th May 2015
3.	Name of Police Station	Pusegaon, Tal. Khatav, District-Satara
4.	Section/s invoked	302, 307, 326, 143, 147, 148, 149, 504, 506 of <i>Indian Penal Code</i> , 1860. Section 37(1), Section 35 of <i>Arms Act, 1959</i> .
5.	Date of incident	15 th August 2015
6.	Date of arrest	18 th August 2015
7.	Date of filing Charge-sheet	In 2015

3. Mr. Gaikwad, learned Counsel appearing for the Applicants submitted that the Applicants are incarcerated for more than 8 years and 6 months. There are total 48 witnesses proposed to be examined by the prosecution, as per the Charge-sheet. He submitted that there is no role assigned to the Applicant No.1-Sameer Mohan Jadhav (Accused No.9). He submitted that as far as Applicant No.2-Shripati Mahipati Jadhav (Accused No.10), role attributed to him is that he was assaulted with an axe. He submitted that Accused No.12-Ashok Mahipati Jadhav having same role as the Applicant No.2, has been granted bail by a learned Single Judge of this Court (Coram: M.S. Karnik, J.) by Order dated 22nd December 2023 passed in Bail Application No.4136 of 2023. He therefore submitted that the Applicants are entitled for bail.

4. On the other hand, Ms. Kaushik, learned APP strongly opposed the Bail Application. She pointed out the statements of various witnesses and submitted that there are many eye-witnesses to the incident. She submitted that the present Applicants have specific role in the assault and therefore bail be not granted. She submitted that although as per the Charge-sheet 48 witnesses are mentioned, however, the prosecution proposes to examine only 20 witnesses.

5. Perusal of Order dated 22nd December 2023 passed by a learned Single Judge in the case of Accused No.12-Ashok Mahipati Jadhav shows that as the said Applicant was incarcerated since 16th August

2015 and as there is likely to be a delay in concluding the trial, the learned Single Judge has granted bail. The relevant part of said Order is paragraphs 3 to 5. The said paragraphs read as under:

"3. The date of the incident is 15.08.2015. There are in all 13 accused. The applicant is the accused No.12. The applicant was arrested on 16.08.2015. The applicant was armed with an axe. According to learned Counsel for the applicant, the applicant is not the main assailant.

4. Learned APP opposed the application for bail. Learned APP submitted that even the eye witnesses have specifically stated that they were assaulted by the applicant as well. These are matters which obviously will be gone into by the trial Court. Learned APP submitted that the trial has commenced and therefore this application should not be entertained.

5. I am informed that 2 witnesses have been examined. The prosecution proposes to examine 48 more witnesses. Learned APP submitted that it is not as if all the witnesses will be examined. The trial is not likely to conclude any time soon. The applicant is in custody for more than eight years and four months. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Considering the long incarceration of the applicant, I am inclined to enlarge the applicant on bail though learned APP opposed the application for bail."

6. Mr. Gaikwad, learned Counsel appearing for the Applicant is right in seeking parity on the basis of the above mentioned Order granting bail.

7. The factual position on record clearly shows that the Applicants were arrested on 18th August 2015 and that oral depositions of only two witnesses is completed and third witness is currently under cross-examination. As there are total 20 witnesses proposed to be examined by the prosecution, the trial is likely to take a considerably long time.

8. Mr. Gaikwad, learned Counsel appearing for the Applicants states that as several witnesses are residing in the same locality as that of the Applicants, the Applicants will therefore not reside within Taluka-Khatav, District-Satara and that the Applicant No.1- Sameer Mohan Jadhav will reside at his sister's house at Asudgaon, Khanda Colony, New Panvel, Panvel, District Raigad and Applicant No.2- Shripati Mahipati Jadhav will reside at his father-in-law's house at Palashi, Taluka-Man, District-Satara.

9. The Applicants do not appears to be at risk of flight.

10. The Applicants do not have any criminal antecedents.

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

ORDER

(a) The Applicants-Sameer Mohan Jadhav and Shripati Mahipati Jadhav be released on bail in connection with C.R. No.61 of 2015 registered with the Pusegaon Police Station, Taluka- Khatav, District-

Satara on their furnishing P. R. Bonds of Rs.25,000/- each with one or two solvent sureties in the like amount.

(b) The Applicants shall not enter the Khatav, Taluka District-Satara 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 Applicants shall furnish their cell phone numbers and residential addresses to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The **Applicant No.1-Sameer** Mohan Jadhav shall report to the **Khandeshwar Police Station**, Taluka Panvel, District **Raigad** and **Applicant No.2- Shripati** Mahipati Jadhav shall report to the **Mhaswad Police Station**, Tal. Man, **District Satara** once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspectors of Khandeshwar (Panvel, District-Raigad) Police Station and Mhaswad (Taluka-Man, District-Satara) Police Station to communicate respective details thereof to the Investigating Officer.

(e) The Applicants 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 Applicants shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.

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

(h) The Applicants shall surrender their passports, 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.

BHALCHANDRA
GOPAL DUSANE

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Date: 2024.02.07
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[MADHAV J. JAMDAR, J.]