

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

BAIL APPLICATION NO.648 OF 2024

Sagar Sandip Gudekar .Applicant

Versus

The State of Maharashtra .Respondent

Mr. Kuldeep U. Nikam, Advocate, for the Applicant.

Mr. P. P. Deokar, APP, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 22.03.2024

P. C.

1. Heard Mr. Nikam, learned Counsel for the Applicant and Mr. Deokar, 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.	466 of 2022
2.	Date of registration of F.I.R.	31.08.2022
3.	Name of Police Station	Loni Kalbhor, Pune
4.	Section/s invoked	302, 307 r/w. 34 of the I.P.C., 1860; 135 of the Maharashtra Police Act, 1951.
5.	Date of incident	30.08.2022
6.	Date of arrest	31.08.2022
7.	Date of filing Charge-sheet	November 2022

3. The Applicant is Accused No.1. There are two accused i.e. the Applicant and Accused No.2 - Sagar Suresh Patole. As per the prosecution case, both the Accused, the Deceased – Abdul Hamid

Shamshuddin Shaikh, and Abdul Irfan Ansari were friends. These four persons prepared a meal together and they had lunch at about 4.00 p.m.. Thereafter, Abdul Irfan Ansari went out for some work and he returned at 7.00 p.m.. At that time, he noticed that there was some scuffle amongst the accused and the deceased. The Applicant was assaulting the Deceased with stones and the Accused No.2 – Sagar Patole was assaulting the Deceased with an iron rod. The Deceased succumbed to the resultant injuries on 31.08.2022.

4. It is the contention of Mr. Nikam, learned Counsel for the Applicant that the Applicant is a young man aged 22 years and that he is incarcerated since 31.08.2022. He submitted that the incident in question appears to have taken place in a heat of anger and on the spur of the moment. He submitted that the only role attributed to the Applicant is that he has assaulted the Deceased with stones. He submitted that in fact, the Applicant, Accused No.2, the Deceased and Mr. Abdul Irfan Ansari are friends. He submitted that there is no recovery at the instance of the Applicant. There are no antecedents.

5. On the other hand, Mr. Deokar, learned APP for the Respondent – State vehemently opposed the Bail Application. He submitted that the Applicant has mercilessly assaulted the Deceased with stones. He pointed out the Post Mortem Examination Report and the injuries on the body of the Deceased. He submitted that the death was caused due to head injuries. Therefore, the Bail Application may be rejected.

6. Perusal of the record shows that the incident in question has

taken place on 30.08.2022. F.I.R. was lodged on 31.08.2022. The Applicant was arrested on 31.08.2022 and the Charge-sheet is filed in November 2022. As per the Charge-sheet, there are 16 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even charge is also not framed yet.

7. *Prima facie*, there is substance in the contention of learned Counsel for the Applicant that the incident in question has taken place in a heat of anger and on the spur of the moment. The Applicant is a young man aged 22 years.

8. The trial is likely to take a considerably long time.

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.

12. In view thereof, the following order:-

ORDER

(a) The Applicant - Sagar Sandip Gudekar be released on bail in connection with C.R. No.466 of 2022 registered with the Loni Kalbhor Police Station, District – Pune on his furnishing P.R. Bond of Rs.25,000/- with one or two local solvent 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 Loni Kalbhor 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 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.

13. The Bail Application is disposed of accordingly.

14. 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.]