

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

BHALCHANDRA
GOPAL DUSANE

CRIMINAL BAIL APPLICATION NO. 702 OF 2024

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Date: 2024.02.22
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Yuvraj Baban Sutar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Brijesh Upadhyay a/w Mr. Akshay Salvi i/by Mr. Avinash Rasal for the Applicant.

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

CORAM : MADHAV J. JAMDAR, J.

DATED : 22nd February 2024

P. C.

1. Heard Mr. Upadhyay, learned Counsel appearing for the Applicant and Mr. Mangaonkar, 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.	289 of 2023
2. Date of registration of F.I.R.	3 rd July 2023
3. Name of Police Station	Bhigwan, District-Pune
4. Section/s invoked	302, 307, 327, 504 of <i>Indian Penal Code, 1860</i>
5. Date of incident	1 st July 2023
6. Date of arrest	4 th July 2023
7. Date of filing Charge-sheet	26 th September 2023

3. Mr. Upadhyay, learned Counsel appearing for the Applicant

submitted that even if the entire prosecution case is accepted as it is, the offence under Section 302 of the *Indian Penal Code, 1860* is not made out. He submitted that the incident in question has taken place suddenly and in a spur of the moment. He also pointed out various lacunae in the investigation. He submitted that investigation is completed, and Charge-sheet is filed therefore the Applicant be released on bail.

4. On the other hand, learned APP has strongly opposed the Bail Application. He submitted that there are eye-witnesses to the incident, apart from that there is a C.C.T.V. footage showing the involvement of the Applicant in the crime.

5. Perusal of the record shows that the incident in question has taken place in a bar and restaurant where both the Applicant and the deceased were inebriated.

6. It appears that at around 8.00 p.m. both of them started consuming liquor and after around 45 minutes a quarrel broke out between them and then the Applicant suddenly assaulted the deceased.

7. *Prima facie* there is substance in the contention raised by Mr. Upadhyay, learned Counsel appearing for the Applicant that the incident in question has taken place in a spur of the moment.

8. In this case, the incident has taken place on 1st July 2023,

F.I.R. was lodged on 3rd July 2023, the Applicant was arrested on 4th July 2023, and Charge-sheet has been filed on 26th September 2023. As per the Charge-sheet, there are about 27 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

9. The Applicant does not appear to be at risk of flight.
10. The Applicant does not have any criminal antecedents.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
12. In view thereof, the following order:-

ORDER

- (a) The Applicant -Yuvraj Baban Sutar be released on bail in connection with C. R. No.289 of 2023 registered with the Bhigwan Police Station, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two 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 Bhigwan Police Station, District-Pune twice in a month i.e. on the first and

third Sundays 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 own merits uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]