

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

BAIL APPLICATION NO. 719 OF 2024

Shivaji Bajrang Thorbole

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Sachinkumar Rajepandhare, Advocate, for the Applicant.
Ms. Supriya Kak, APP, for the Respondent – State.
Mr. S. R. Shaikh, P.S.I., present.

**CORAM: MADHAV J. JAMDAR, J.
DATE: 26.02.2024**

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1. Heard Mr. Rajepandhare, learned Counsel appearing for the Applicant and Ms. Kak, 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.	883 of 2023
2.	Date of registration of F.I.R.	05.11.2023
3.	Name of Police Station	Mangalwedha Police Station, Taluka – Mangalwedha, District - Solapur
4.	Sections invoked	304, 323 r/w. 34 of the I.P.C., 1860
5.	Date of incident	05.11.2023
6.	Date of arrest	06.11.2023

7.	Date of filing of Charge-sheet	11.12.2023
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3. The informant - Mr. Digambar Bajrang Thorbole, the Applicant - Mr. Shivaji Bajrang Thorbole and the deceased - Namdeo are siblings. As per the prosecution case, there was a dispute amongst them about the partition of the ancestral agricultural land. The Applicant - Mr. Shivaji Thorbole was cultivating the entire agricultural land. The other brothers were residing at different places. In view of the insistence by others, the agricultural land was partitioned. The deceased - Namdeo went to the village - Redde, Taluka - Mangalwedha, District - Solapur for about five days for cultivating the land which had come to his share. At that time, some altercation occurred between the deceased and the Applicant. The Applicant assaulted the deceased with kicks and fist blows. The Applicant's wife also assaulted the deceased with kicks and fist blows. Some villagers and brother - Digambar intervened in the quarrel. Digambar, by taking Namdeo on his motor-cycle was going to his place. At that time, Namdeo was not feeling well. Therefore, he asked Digambar to halt the motor-cycle. As he was not feeling well, a four-wheeler was called and he was taken to the hospital. When he was taken to the Government Hospital, Mangalwedha, he was declared

dead. The Post-Mortem Examination Report shows the probable cause of death as "*Death due to Coronary artery disease*".

4. Mr. Rajepandhare, learned Counsel appearing for the Applicant submitted that the Applicant had only slapped the deceased and that he died as he was suffering from a heart disease. He submitted that investigation is complete and Charge-sheet has been filed. Therefore, the Applicant may be enlarged on bail.

5. Ms. Kak, learned APP appearing for the Respondent – State vehemently opposed the Bail Application. She submitted that the Applicant had assaulted the deceased. She submitted that the death is due to the assault and not due to heart attack. Therefore, bail may not be granted. She further submitted that Accused No. 2, who is the wife of the Applicant, is absconding.

6. A perusal of the record shows that the incident in question has taken place on 05.11.2023. F.I.R. was registered on 05.11.2023. Charge-sheet was filed on 11.12.2023. The Post-Mortem Examination Report does not show any injury and the probable cause of death is due to Coronary artery disease.

7. There are no antecedents against the Applicant.

8. 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 is therefore entitled to be released on bail.

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

ORDER

(a) The Applicant- Shivaji Bajrang Thorbole be released on bail in connection with C. R. No. 883 of 2023 registered with the Mangalwedha Police Station, Taluka - Mangalwedha, District - Solapur on his furnishing P. R. Bond of Rs.20,000/- 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 Mangalwedha Police Station, Taluka - Mangalwedha, District - Solapur once a month 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, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]