

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

BAIL APPLICATION NO. 740 OF 2024

Deepak Rajendra Gorwale

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Satyavrat Joshi a/w. Mr. Zaheer Shaikh i/b. Ms. Shivani Kondekar, for the Applicant.

Ms. Savita M. Yadav, APP, for the Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 27 FEBRUARY 2024

P.C.:

1. Heard Mr. Joshi, learned Counsel appearing for the Applicant and Ms. Yadav, 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.	419 of 2022
2	Date of registration of F.I.R.	26/09/2022
3	Name of Police Station	Sinhagad Road Police Station, Pune
4	Section/s invoked	302, 141, 143, 144, 147, 148 & 149 of the <i>I.P.C., 1860</i>
5	Date of incident	25/09/2022
6	Date of arrest	26/09/2022
7	Date of filing Charge-sheet	23/12/2022

3. As per the prosecution case, there are a total of 14 Accused. The incident took place in the night of 25th September 2022 to 26th September 2022. The Accused were having a party and at that time they noticed the deceased around the place where they were partying. One of the Accused asked the deceased as to what he was doing at that place. The Victim then fled the place. The Accused chased him and brought him back and the Accused assaulted the Victim. The Victim succumbed to the resultant injuries.

4. It is the submission of Mr. Joshi, learned Counsel appearing for the Applicant that the material on record shows that the Applicant is not the actual assailant. He submits that three co-accused who have been granted bail are having the same role as that of the present Applicant. He further submits that there is a C.C.T.V. footage in which the Applicant is not seen.

5. Mr. Joshi, learned Counsel appearing for the Applicant states that there are 4 co-Accused who have been enlarged on bail by this Court. He states that the first two Bail Applications of two different co-accused were allowed by a learned Single Judge [M. S. Karnik, J.] by the Orders dated 11th September 2023 and 13th September 2023. He submitted that a learned Single Judge [N. R. Borkar, J.] by the Order dated 11th October 2023 has allowed a third Bail Application. He submitted that this Court has allowed

the Bail Application No. 695 of 2024 filed by one Co-accused - Satish Chandrakant Kengal.

6. On the other hand, Ms. Yadav, learned APP submitted that in the incident, an innocent person has been mercilessly assaulted by the Accused on the pretext that the deceased was a thief. She pointed out the statement of witness - Mr. Balasaheb Ramchandra Kudale (page Nos. 238 - 239), Mr. Digambar Sundar Kamble (page Nos. 240 - 241), Post-Mortem Examination Report (page Nos. 252-257) and pointed out that there are about 18 injuries and some of them are on the vital part. She therefore submitted that there is material available against the present Applicant and therefore bail be not granted.

7. A perusal of the record shows that the incident in question has taken place on 25th September 2022. The F.I.R. has been registered on 26th September 2023 and the Applicant has been arrested on 26th September 2023.

8. A learned Single Judge [M. S. Karnik, J.] while granting bail to co-accused, Prakash Kisan Kank has observed in paragraph no.3 as follows:-

“3. The applicant is the accused no.2. In all there are 14 accused. It is the case of the prosecution that all accused were having party. They noticed the deceased around the place where they were partying. One of the accused asked the deceased as to what he was doing at

that place. The victim ran away. The accused chased him and brought him back. It is alleged that the accused assaulted the victim. The victim succumbed to the injuries. So far as the present applicant is concerned, there is no allegation or material to indicate that the applicant had any role in the assault. There was no recovery from the applicant.”

The said observations are squarely applicable to the case of the present Applicant.

9. Although, it is the contention of Ms. Yadav, learned APP appearing for the Respondent – State the Applicant’s role can be seen from the statements of witnesses which are at page Nos. 238 - 241, however, it is to be noted that some accused are specifically mentioned by name and thereafter, it is mentioned that about 7-8 persons were present who have assaulted the deceased by kick and fist blows. The name of the present Applicant is not specifically mentioned in the said statement. Although Charge-sheet is filed, admittedly, T. I. Parade is not conducted with respect to these unknown persons. Therefore, there is no material to connect the Applicant with the alleged offences.

10. It is an admitted position that investigation has been completed and that Charge-sheet has been filed on 23rd December 2023. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

11. Mr. Joshi, learned Counsel appearing for the Applicant, on instructions, submitted that as most of the witnesses are resident of District - Pune, the Applicant will reside at Tembi fata, above pipeline, Tanaji wadi, Shivshanti Seva Mandal, Room No.2, Sutar Chawl, Thane and will attend the Vartak Nagar Police Station, Thane (West).
12. The Applicant does not have any criminal antecedents.
13. The Applicant does not appear to be at risk of flight.
14. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
15. In view thereof, the following order:-

ORDER

- (a) The Applicant - Deepak Rajendra Gorwale be released on bail in connection with C. R. No.419 of 2022 registered with the Sinhagad Road Police Station, District- Pune on his furnishing P. R. Bond of Rs.25000/- 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 Vartak Nagar Police Station, Thane (West) 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.

16. The Bail Application is disposed of accordingly.

17. 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.]