

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 755 OF 2024**

Pandit *alias* Pandya
Raghunath Gaikwad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Abhishek R. Avachat, Advocate for the Applicant.
Mr. Sameer Mangaonkar, APP for Respondent-State.
P.S.I. Mr. Mithun Pardeshi, Panchavati Police Station, Nashik City,
present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 26th February 2024

P. C.

1. Heard Mr. Avachat, 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.	295 of 2021
2.	Date of registration of F.I.R.	11 th September 2021
3.	Name of Police Station	Panchavati, Nashik, District-Nashik
4.	Section/s invoked	302 of the <i>Indian Penal Code, 1860</i>
5.	Date of incident	10 th September 2021
6.	Date of arrest	11 th September 2021
7.	Date of filing Charge-sheet	4 th December 2021

3. As per the prosecution case, the Applicant was demanding Rs.20/- from the deceased for purchasing liquor and when the deceased refused to give the said amount to the Applicant, the Applicant assaulted the deceased with a blade and the deceased succumbed to the resultant injury.

4. Mr. Avachat, learned Counsel appearing for the Applicant submitted that the incident in question has occurred in a spur of the moment. He submitted that there was no previous enmity between the deceased and the Accused. He submitted that the offence under Section 302 of the *Indian Penal Code, 1860* is not made out from the Charge-sheet.

5. On the other hand, learned APP strongly opposed the Bail Application. He submitted that there are eye-witnesses to the incident and the Applicant is involved in the crime and therefore, bail be not granted.

6. The incident in question has taken place on 11th September 2021, the Applicant was apprehended on the very day i.e. on 11th September 2021 and Charge-sheet was filed on 4th December 2021. The Applicant has filed the first Bail Application before the learned Additional Sessions Judge, Nashik and the same was rejected by Order dated 6th May 2023. Thereafter again second

Bail Application was filed before the learned Sessions Court, Nashik and the same was rejected by Order dated 11th October 2023, by the learned District Judge-1 and Additional Sessions Judge, Nashik. The said Application was rejected on the ground that the trial will shortly commence. However, there is no substantial progress in the trial. The trial is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention of learned Counsel appearing for the Applicant that the incident has occurred in a spur of the moment.

8. The Applicant does not appear to be at risk of flight.

9. The Applicant does not have any criminal antecedents.

10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

11. In view thereof, the following order:-

ORDER

(a) The Applicant - Pandit *alias* Pandya Raghunath Gaikwad be released on bail in connection with C. R. No.295 of 2021 registered with the Panchavati Police Station, Nashik, District-Nashik on his furnishing P.R. Bond of Rs.5,000/- with one or two 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 Panchavati Police Station, Nashik, District-Nashik on 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.

BHALCHANDRA
GOPAL
DUSANE

[MADHAV J. JAMDAR, J.]

Digitally signed by
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