

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

BAIL APPLICATION NO. 784 OF 2024

Omkar Annarao Kendre

.Applicant

Versus

The State of Maharashtra

.Respondent

Ms. Shubhangi Parulekar, Advocate, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent – State.

Mr. Sandip Kailas Borkar, P.S.I., Chakan Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 26.02.2024

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1. Heard Ms. Parulekar, learned Counsel appearing for the Applicant and Ms. Kaushik, 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.	1868 of 2022
2.	Date of Registration of F.I.R.	08.12.2022
3.	Name of Police Station	Chakan Police Station, Pune
4.	Sections invoked	201 & 302 of the IPC
5.	Date of Incident	26.10.2022
6.	Date of Arrest	08.12.2023
7.	Date of filing of Charge-sheet	08.03.2023

3. As per the prosecution case, the deceased was employed by the Applicant as a cook. The Applicant is a young man aged 21 years and he was running a small eatery in the name and style of 'Omkar Dhaba'. The customers of the said eatery were complaining about the quality of the food. Therefore, there used to be quarrels between the Applicant and the deceased. As per the prosecution case, as the deceased was not preparing the food in a proper manner, the Applicant assaulted the deceased with a wooden stick and the deceased succumbed to the resultant injuries. As per further prosecution case, the Applicant kept the mortal remains of the deceased in the said eatery for about two days. Thereafter, it was decomposed & then was dumped behind 'Vaishnavi Dhaba'.

4. Ms. Parulekar, learned Counsel appearing for the Applicant submitted that the Applicant is a young man aged 21 years and the incident in question has taken place, as the deceased who was working as a cook in that eatery, was not preparing good quality food. Therefore, the Applicant was furious on the deceased and the incident in question has taken place. She submitted that there are no antecedents. She submitted that Charge-sheet was filed on 08.03.2023, however, there is no further progress in the trial. She further submitted that as far as destruction of evidence

is concerned, same is punishable under Section 201 of the *Indian Penal Code, 1860* and is bailable.

5. On the other hand, Ms. Kaushik, learned APP appearing for the Respondent - State vehemently opposed the Bail Application and submitted that there are two eye-witnesses to the incident. She submitted that the Applicant has mercilessly assaulted the deceased and tried to destroy the evidence and therefore, the Bail Application be rejected.

6. A perusal of the record shows that the incident in question has taken place on 26.10.2022. F.I.R. has been lodged on 08.12.2022. Applicant has been arrested on 08.12.2022. Charge-sheet has been filed on 08.03.2022. Till date, there is no progress in the trial. The trial is likely to take a considerably long time.

7. The Charge-sheet shows that the deceased was working as a cook in the Applicant's eatery and as there were several complaints from the customers about quality of food prepared by the deceased, the Applicant has assaulted the deceased with a wooden stick. *Prima facie*, there is substance in the contention of Ms. Parulekar, learned Counsel appearing for the Applicant that the incident in question has taken place in a spur of the moment.

8. The Applicant does not have any criminal antecedents.

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

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

11. In view thereof, the following order:-

ORDER

(a) The Applicant - Omkar Annarao Kendre be released on bail in connection with C. R. No. 1868 of 2022 registered with the Chakan Police Station, District - Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent local 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 Chakan Police Station, District - Pune on every Sunday 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.]