



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

BAIL APPLICATION NO.793 OF 2024

Somnath Vishnupant @ Vishnu Shelar	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Suhas B. Rohile, Advocate for the Applicant.
 Mr. Prasanna P. Malshe, APP, for the Respondent-State.
 Mr. Sahil Choudhari, Advocate for the Intervenor/Informant.

**CORAM : MADHAV J. JAMDAR, J.
DATED : FEBRUARY 27, 2024**

P.C.:

- 1.** Heard Mr. Rohile, learned Counsel appearing for the Applicant, Mr. Malshe, learned APP appearing for the Respondent-State and Mr. Choudhari, learned Counsel appearing for the Informant.
- 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.	720 of 2018
2	Date of registration of F.I.R.	06/08/2018
3	Name of Police Station	Yavat Police Station, District-Pune
4	Section/s invoked	302, 143, 147, 148 & 149 & 120-B of the <i>Indian Penal Code, 1860</i> and Section Section 3 r/w 25 of the <i>Arms Act, 1959</i> .
5	Date of incident	05/08/2018

6	Date of arrest	06/08/2018
7	Date of filing Charge-sheet	02/02/2019

3. As per the prosecution case, there was dispute between the accused persons and the deceased Swapnil *alias* Pintu Dnyandeo Shelar on the ground of illegal excavation of sand and also on the count of financial transactions. On 5th August 2018 at about 10.00 p.m. at Kedgaon, Taluka-Daund, District-Pune, all accused persons gathered in an unlawful assembly and in furtherance of common intention assaulted the deceased Swapnil Shelar with deadly weapon sickle and committed his murder. The Informant is Vishal Dnyandeo Shelar.

4. Mr. Rohile, learned Counsel appearing for the Applicant submitted that there are a total of 11 accused and 10 of them have been released on bail. He submitted that the accused having same role have been released on bail. To substantiate the said contention, he pointed out the Order dated 17th February 2023 passed by a learned Single Judge [Coram: N. R. Borkar, J.] in Criminal Bail Application No.3568 of 2022, the Order dated 6th July 2023 passed by learned Additional Sessions Judge 2, Baramati, District-Pune below Exh. 86 in Sessions Case No.68 of 2019, order dated 16th February 2024 passed by this Court in Criminal Bail Application No.3600 of 2023 and also the Orders passed with respect to other accused. He submitted that the Applicant was arrested on 6th August 2018 and till date there is no progress in the

trial. He submitted that even the charge is also not framed yet.

5. On the other hand, Mr. Malshe, learned APP appearing for the Respondent-State and Mr. Choudhari, learned Counsel appearing for the Intervenor/Informant strongly opposed the Bail Application. They submitted that the Applicant has actually assaulted the deceased. The wife of the deceased is the eye-witness to the incident in question and therefore bail be not granted. Mr. Malshe, learned APP submitted that there are two antecedents being C. R. No.515 of 2018 registered with Yavat Police Station for the offences punishable under Sections 143, 147, 148, 149, 324, 323, 504 and 506 of the *Indian Penal Code, 1860* (“IPC”) and C.R. No.590 of 2017 registered under Sections 143, 147, 149, 324, 323, 504 and 506 of the IPC.

6. A perusal of the record shows that the incident occurred on 5th August 2018, the F.I.R. was registered on 6th August 2018 and the Applicant was arrested on 6th August 2018. The Charge-sheet has been filed on 2nd February 2019 and till date i.e. for more than 6 and 1/2 years there is no progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there are a total of 31 witnesses proposed to be examined by the prosecution. Therefore, the trial is unlikely to conclude in a short time.

7. A learned Single Judge of this Court by Order dated 17th February 2023 granted bail to co-accused Babu *alias* Vishal Shivaji

Memane. The relevant discussion in paragraphs 4, 5 and 6 of the said Order, reads as follows:

“4. It is the case of the prosecution that on the date of incident, which took place on 5 August 2018, the applicant alongwith other co-accused assaulted the deceased by koyta etc. and committed his murder as there was dispute between the deceased and some of the co-accused on account of some financial transaction.

5. According to the prosecution, Sujata Swapnil Shelar – wife of the deceased and Bapurao Narayan Shelar are the eye-witnesses to the alleged incident. If it is so then it is not understood as to why the first information report was lodged only on the basis of suspicion and why the statement of both the eye-witnesses came to be recorded three days after the alleged incident.

6. Considering the overall facts and circumstances and as the applicant is in jail for more than 4 years, I am inclined to release him on bail.”

(Emphasis added)

8. There are a total of 11 accused of which 10 have been released on bail. The details of the same are as follows:

Sr. No.	Accused Name	Case No.	Order date	Coram
1	Santosh Sampat Jagtap	Cri. Bail Application No.894/2019	11/09/2019	Additional Sessions Judge, Baramati
2	Sameer Sampat Jagtap	Cri. Bail Application	06/02/2020	Additional Sessions Judge, Baramati

		No.102/2020		
3	Babu @ Vishal Shivaji Memane	Cri. Bail Application No.3568/2022	17/02/2023	N. R. Borkar, J.
4	Anil Tukaram Mohite	Anticipatory Bail Application No.1005 of 2019	25/04/2019	P. N. Deshmukh, J.
5	Deepak Dashrath Dandawate	Cri. Bail Application No.68 of 2019	09/05/2019	Additional Sessions Judge, Baramati
6	Anil @ Sunil Arun Shitole	Application at Exhibit 86 in Sessions Case No.68 of 2019	06/07/2023	Additional Sessions Judge 2, Baramati, Dist. Pune
7	Bhushan Ravindra Sabale	Application at Exhibit 17 in Sessions Case No.68 of 2019	07/05/2019	Additional Sessions Judge, Baramati
8	Datta Sidram Kamble	Application at Exhibit 3 in Sessions Case No.68 of 2019	02/05/2019	Additional Sessions Judge, Baramati
9	Ranjeet alias Babu Balaso Vanjhare	Bail Application No.3600 of 2023	16/02/2024	Madhav J. Jamdar, J.
10	Bablu Dengale		08/03/2021	S. K. Shinde, J.

9. It is an admitted position that investigation has been completed and that Charge-sheet has been filed on 2nd February 2019. There are 31 witnesses as per the Charge-sheet. The trial is unlikely to conclude in a short time.

10. As far as the antecedents are concerned, the same is of the year 2017-2018 being C. R. No.515 of 2018 and C.R. No.590 of 2017 for the

offences punishable under Sections 143, 147, 148, 149, 324, 323, 504 and 506 of the IPC.

11. Mr. Rohile, learned Counsel appearing for the Applicant states that as several witnesses are from Daund Taluka, the Applicant will therefore not reside within Taluka-Daund, District- Pune and that the Applicant will reside at C/o. Uday Govindrao Jangam, Tupe Wasti, Uruli Kanchan, Uruli Kanchan, Taluka-Haveli, District-Pune 412202.

12. As far as the contentions of Mr. Choudhari, learned Counsel appearing for the Informant that the co-Accused who have been released on bail are threatening the witnesses, the Informant as well as State of Maharashtra can take steps for cancellation of bail. As far as the contention of Mr. Choudhari, learned Counsel appearing for the Informant that some other persons are also threatening the witnesses for that also, the Informant can file complaint/F.I.R. with respect to the said incident. The Police Authorities to take prompt action in accordance with law if such complaint is filed.

13. The Applicant is behind bar since 6th August 2018 i.e. for more than 6 and 1/2 years and the Accused has a right to speedy trial under Article 21 of the Constitution of India. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is

the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail.

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

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

ORDER

- (a) The Applicant-Somnath Vishnupant *alias* Vishnu Shelar be released on bail in connection with C.R. No.720 of 2018 registered with the Yavat Police Station, District-Pune on his furnishing P.R. Bond of Rs.50,000/- with two solvent local sureties in the like amount.
- (b) The Applicant shall not enter the Daund Taluka, Pune District after being released on bail, except for reporting to the Investigating Officer, if called.
- (c) 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.
- (d) The Applicant shall report to the Uruli Kanchan Police Station, District-Pune once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Uruli Kanchan Police Station, District-Pune to communicate details thereof to the Investigating Officer.
- (e) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

- (f) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) 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.]