

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

BAIL APPLICATION NO.1175 OF 2024

Vikas Subhash Mali

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Chetan Deshmukh (Through VC) a/w Mr. Ankur Pahade, for the Applicant.

Mr. P. H. Gaikwad, APP for the Respondent-State.

S. J. Ghoderao, - Nashik Taluka Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 15 APRIL 2024

P. C.

1. Heard Mr. Deshmukh learned Counsel for the Applicant and Mr. Gaikwad learned APP 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.	192 of 2023
2	Date of registration of F.I.R.	14/06/23
3	Name of Police Station	Nashik Taluka, Nashik (Rural)
4	Section/s invoked	302, 324 of the I.P.C., 1860
5	Date of incident	13-06-2023
6	Date of arrest	17-06-2023
7	Date of filing Charge-sheet	13-09-2023

3. The prosecution case is that the incident took place on 13-06-2023 at about 10.00 PM. The applicant and the deceased-Informant were consuming liquor. At that time, the Applicant demanded Rs.50/- from the deceased, who had received his salary on that day. However the deceased informed the Applicant that his entire salary was at his house and therefore, the Applicant assaulted the deceased with sticks. The assault took place on 13-06-2023 and the deceased succumbed to the resultant injuries on 16-6-2023.

4. Mr. Deshmukh, learned Counsel for the Applicant submitted that the incident in question took place on the spur of the moment when the Applicant was under the influence of alcohol. He submitted that even as per the prosecution case, the assault was with a wooden stick. He submitted that the Applicant was arrested on 17-06-2023, Charge-sheet was filed on 13-09-2023 and there is no progress in the trial till date and even the charge is also not framed yet. He submitted that there are no antecedents and the Applicant be released on bail.

5. On the other hand, Mr. Gaikwad, learned APP strongly opposed the bail Application. He submitted that the Applicant had mercilessly assaulted the deceased and therefore the deceased succumbed to the resultant injuries. He submitted that there are eye-witnesses to the incident in question. On taking instructions, he submitted that there are no antecedents.

6. Perusal of the record shows that the incident took place on 13-06-2023. The deceased succumbed to the resultant injuries on 16-06-2023 and the Applicant was arrested on 17-06-2023, The Charge-sheet was filed on 13-09-2023. As per the Charge-sheet, the prosecution proposes to examine 22 witnesses. Till date, there is no progress in the trial and even the Charge is also not framed yet. Accordingly the trial will take a considerable time to conclude.

7. *Prima facie* there is substance in the contention advanced by the learned Counsel for the Applicant that the incident in question has taken place on the spur of the moment and when the Applicant was under the influence of alcohol. There was no pre-planning.

8. There are no antecedents.

9. The Applicant is a young person aged 28 years and he is a labourer.

10. Mr. Deshmukh, learned Counsel for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within the jurisdiction of Nashik (Rural) police station and that the Applicant will reside at C/o. Mr. Manik Namdeo Gangurde, R/o. Narayan Tembi, Taluka-Niphad, District – Nashik.

11. Accordingly the Applicant is entitled to be released on bail.

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 - Vikas Subhash Mali be released on bail in connection with C.R. No. 192 of 2023 registered with the Nashik Taluka Police Station, Taluka – Nashik, District - Nashik on his furnishing PR. Bond of Rs.15,000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the jurisdiction of Nashik Taluka police station after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (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 Niphad Police Station, Taluka - Niphad, District - Nashik 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 Niphad Police Station, Taluka - Niphad, District - Nashik 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 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 prosecution 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 merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]