

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

BAIL APPLICATION NO. 1232 OF 2024

Lucky *alias* Sayyad Firoz Khan

.Applicant

Versus

The State of Maharashtra

.Respondent

Ms. Manisha Jadhav i/b. Mr. S. K. Kamble, for the Applicant.

Mr. Shriram S. Chaudhari, APP, for the Respondent – State.

Mr. Mahavir S. Kamble, PSI-Pelhar Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 28.03.2024

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1. Heard Ms. Jadhav, learned Counsel for the Applicant and Mr. Chaudhari, 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.	87 of 2023
2.	Date of registration of F.I.R.	23.01.2023
3.	Name of Police Station	Pelhar, Palghar.
4.	Sections invoked	302, 326, 504 & 506 of the I.P.C., 1860
5.	Date of incident	22.01.2023
6.	Date of arrest	23.01.2023
7.	Date of filing of Charge-sheet	18.04.2023

3. As per the prosecution case, on 22.01.2023 in the evening at about 5.00 p.m. the Applicant as well as the deceased along with others were playing cricket. Thereafter, when the Applicant was busy with his cell phone, the deceased snatched his cell phone and when

the Applicant questioned the deceased about the same then the deceased started assaulting the Applicant with a belt. As a result of which the Applicant assaulted the deceased with a wooden stump lying on the ground. The deceased was admitted to a hospital where he succumbed to the resultant injuries on 27.01.2023.

4. Ms. Jadhav, learned Counsel for the Applicant submitted that the incident in question occurred on a sudden provocation. There was no pre-meditation. She submitted that the Applicant had taken the deceased to the hospital and that he surrendered to the Police immediately thereafter. She submitted that it is the deceased who started fighting and assaulting the Applicant with belt. She submitted that there is one antecedent and that the Applicant has been granted bail in the said case bearing C.R. No.376 of 2021 registered with the Waliv Police Station for the offences punishable under Sections 394, 395, r/w 34 of the *Indian Penal Code, 1860* ("IPC").

5. On the other hand, Mr. Chaudhari, learned APP for the Respondent-State vehemently opposed the Bail Application. He submitted that the Applicant mercilessly assaulted the deceased. He submitted that there is one antecedent. Therefore bail may not be granted to the Applicant.

6. A perusal of the record shows that the incident in question has taken place on 22.01.2023. F.I.R. was lodged on 23.01.2023. The Applicant was apprehended on 23.01.2023. Charge-sheet was filed on 18.04.2023. As per the Charge-sheet, there are about 25 witnesses

proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

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 a sudden provocation as firstly the deceased snatched the cell phone of the Applicant and thereafter the deceased assaulted the Applicant with a belt.

8. There is one antecedent bearing C.R. No.376 of 2021 registered with the Waliv Police Station for the offences punishable under Sections 394, 395, r/w 34 of the IPC. However, the Applicant has been enlarged on bail in that case.

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 - Lucky *alias* Sayyad Firoz Khan be released on bail in connection with C.R. No.87 of 2023 registered with the Pelhar Police Station, Taluka-Vasai, District-Palghar on his furnishing P.R. Bond of Rs.25,000/- with one or two local 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 Pelhar Police Station, Taluka-Vasai, District-Palghar on the Sunday of every week 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 merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]