

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

BAIL APPLICATION NO.1455 OF 2024

Namdev Uttam Mahale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Vagal a/w Ms. Savvy Kolhekar, Mr. Divesh Mehani & Mr. Kunal Pednekar, for the Applicant.

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

Mr. Chandrakant N. Nikam, HC-Pimpalgaon Baswant Police Station, District-Nashik, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 16th APRIL 2024

P.C.:

1. Heard Mr. Vagal, learned Counsel for the Applicant and Ms. Kaushik, 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.	184 of 2022
2	Date of registration of F.I.R.	25/08/2022
3	Name of Police Station	Pimpalgaon Baswant, District-Nashik
4	Section/s invoked	302 of the <i>I.P.C., 1860</i>
5	Date of incident	24/08/2022
6	Date of arrest	26/08/2022
7	Date of filing Charge-sheet	03/11/2022

3. The Applicant and the deceased are husband and wife. As per the

prosecution case, at the relevant time, the Applicant and deceased were residing in the house of the parents of the deceased. The Applicant was unemployed and he was a habitual alcoholic. He used to frequently demand money from the deceased for purchasing liquor. The incident in question took place at about 01:00 p.m. on 24th August 2022 when the Applicant and the Deceased had quarrelled and due to the said quarrel, the Applicant was leaving the house of the parents of the deceased. When leaving the house, the Applicant assaulted the deceased with a wooden log on her head. The deceased succumbed to the resultant injuries.

4. Mr. Vagal, learned Counsel for the Applicant submitted that the incident in question took place on the spur of the moment and under the influence of alcohol. The incident is not premeditated. He submitted that the Applicant was only 22 years old at the time of the offence in question. He submitted that investigation has been completed and Charge-sheet has been filed. There are no antecedents against the Applicant and therefore the Applicant be enlarged on bail.

5. On the other hand, Ms. Kaushik, learned APP strongly opposed the Bail Application. She submitted that the Applicant has mercilessly assaulted the deceased. She pointed out the Post-Mortem Examination note (Pages 32 to 38) and submitted that cause of death is recorded as head injury due to blunt trauma to head. She submitted that there are

eye-witnesses to the incident in question and therefore the Bail Application be rejected. However, Ms. Kaushik, learned APP, after taking instructions, states that there are no antecedents against the Applicant.

6. Perusal of the record shows that the incident in question took place on 24th August 2022. F.I.R. was lodged on 25th August 2022 and the Applicant was arrested on 26th August 2022. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 3rd November 2022. As per the Charge-sheet, there are a total of 24 witnesses proposed to be examined by the prosecution. There is no further progress in the trial and even the charge is also not framed. Accordingly, the trial is likely to take a considerably long time to conclude.

7. *Prima facie*, there is substance in the contention of the learned Counsel for the Applicant that the incident in question took place on the spur of the moment when the Applicant was under the influence of alcohol.

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-Namdev Uttam Mahale be released on bail in connection with C.R. No.184 of 2022 registered with the Pimpalgaon Baswant Police Station, District-Nashik 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 Pimpalgaon Baswant Police Station, District-Nashik once every week i.e. 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 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.]