

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

BAIL APPLICATION NO.1459 OF 2024

Yogesh Pandharinath Dambale

...Applicant

Versus

The State of Maharashtra

...Respondent

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

Mr. P. P. Deokar, APP, for the Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : APRIL 17, 2024

P.C.:

1. Heard Mr. Vagal, learned Counsel for the Applicant and Mr. Deokar, 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.	191 of 2022
2	Date of registration of F.I.R.	04/11/2022
3	Name of Police Station	Mhasrul, District-Nashik
4	Section/s invoked	302, 323 & 504 of the <i>I.P.C., 1860</i>
5	Date of incident	03/11/2022
6	Date of arrest	04/11/2022
7	Date of filing Charge-sheet	30/01/2023

3. As per the prosecution case, the Applicant, Deceased, Informant

and others were working as construction labourers. They were provided small temporary houses on the site for residence. The Informant is the brother-in-law of the deceased. The incident in question took place on 3rd November 2022 at about 11.30 p.m. to 12.00 a.m. The Informant's son Gulshan Kumar, aged 11 years heard some noise and noticed that Satlal i.e. Informant's brother-in-law was being assaulted by the Applicant on the ground that the deceased had gone to Applicant's sister's house.

4. It is the contention of Mr. Vagal, learned Counsel for the Applicant that the incident in question took place on the spur of the moment. He submitted that there was no intention to commit the crime. He submitted that the incident in question took place when the Applicant was under the influence of alcohol. He submitted that the deceased entered the house of the Applicant's sister under the influence of alcohol and the Applicant was also under the influence of alcohol when the incident in question took place. He submitted that the assault was only by kicks and fist blows and no weapon was used by the Applicant to assault the deceased in the crime.

5. On the other hand, Mr. Deokar, learned APP strongly opposed the Bail Application. He submitted that the Applicant had mercilessly assaulted the deceased. He further submitted that there are two antecedents against the Applicant and therefore the Bail Application be

rejected. The details of the antecedents are as follows:

Sr. No.	C.R. No.	Name of Police Station	Section/s invoked
1	C.R. No.563 of 2021	Dindori Police Station, District-Nashik	379 of the <i>I.P.C.</i> <i>1860</i>
2	C.R. No.20 of 2021	Peth Police Station, District-Nashik	392 of the <i>I.P.C.</i> <i>1860</i>

6. Perusal of the record shows that the incident in question took place on 3rd November 2022. F.I.R. was lodged on 4th November 2022 and the Applicant was arrested on 4th November 2022. It is an admitted position that investigation has been completed and that Charge-sheet has been filed on 30th January 2023. Although the charge is framed on 3rd October 2023, not a single witness is examined till date. As per the Charge-sheet, there are a total of 17 witnesses proposed to be examined by the prosecution. Accordingly, the trial will take a considerably long time to conclude.

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

8. Although there are two antecedents, they are of the year 2021 and the Applicant has been released on bail in those cases.

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-Yogesh Pandharinath Dambale be released on bail in connection with C.R. No.191 of 2022 registered with the Mhasrul Police Station, District-Nashik on his furnishing PR. Bond of Rs.10,000/- with one or two 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 Mhasrul 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 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.]