

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1485 OF 2024

Laluman Devidas Aher	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Aniket Vagal a/w. Mr. Divesh Mehani and Mr. Kunal Pednekar,
Advocates, for the Applicant.
Mr. Shriram S. Chaudhari, APP, for the Respondent-State.
Mr. Sunil Birhade, P.S.I.-Wadivarhe Police Station, Nashik, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 3rd MAY 2024

P.C.:

1. Heard Mr. Vagal, 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.	212 of 2023
2.	Date of registration of F.I.R.	01/08/2023
3.	Name of Police Station	Wadivarhe, District-Nashik
4.	Section/s invoked	307, 143, 147, 149, 109, 323, 504 of the IPC, 1860.

5.	Date of incident	31/07/2023
6.	Date of arrest	19/08/2023
7.	Date of filing of Charge-sheet	15/11/2023

3. As per the prosecution case, there was a dispute between the families of one Samadhan and Namdev. The present Applicant, Namdev and others were in 'Rahi Bar and Restaurant'. After Namdev and Sharad Tile went outside the said bar, at that time, the present Applicant questioned Namdev and asked him how he is concerned with the agricultural field of the Samadhan. At that time, injured Namdev informed him that they are not concerned with the land of Samadhan and Samadhan has already sold his agricultural land and further questioned the present Applicant how the present Applicant is concerned with the said agricultural land. At that time, the present Applicant told him that it was Samadhan who had asked him to question injured Namdev regarding this and he assaulted the injured. Thereafter the said scuffle was stopped by others. After some time, Dashrath, Namdev and Sharad and Informant Dnyanesh Chothe again came at said Bar and Restaurant to clarify regarding their stand. At that time, the Applicant and other 6 Accused assaulted the injured Namdev, and Sharad with an

iron rod and a wooden log. In the said incident Dashrath Pandharinath Aher, Namdev Pandharinath Aher and Sharad Somnath Tile were the injured.

4. It is the contention of Mr. Vagal, learned Counsel for the Applicant that both Accused and the injured at the relevant time were under the influence of alcohol. He submitted that the incident in question occurred on the spur of the moment and it was not premeditated. He submitted that there are total 6 Accused out of which 3 Accused namely Anil Kacharu Aher, Manik Vishnu Dhatrak, and Jitendra Dashrath Kankate have been released on bail by the learned Sessions Judge. He submitted that the role attributed to all the Accused who have been released on bail is the same as the one attributed to the present Applicant. He submitted that in fact, an altercation initially took place outside the said Bar and Restaurant and Namdev and Sharad went away from that place and again they came back there along with Dashrath and therefore, the incident in question took place.

5. On the other hand, Mr. Chaudhari, learned APP for the Respondent-State strongly opposed the Bail Application. He

pointed out the statement of Namdev Aher dated 17th August 2023 and his supplementary statement dated 13th October 2023. He also pointed out statement of Sharad Tile dated 17th August 2023 and his supplementary statement dated 13th August 2023. These two persons are the injured persons. He also pointed out statement of Dashrath dated 9th October 2023 (Page 66). He also pointed out the injury certificate of injured Namdev Pandharinath Aher and Sharad Tile. He therefore, submitted that the Applicant has actively participated in the assault on the injured. He submitted that the injuries are grievous. He further submitted that there are 5 antecedents and therefore, the Bail Application be rejected.

6. Mr. Vagal, learned Counsel for the Applicant submitted that as far as 3 antecedents are concerned, the Applicant has been acquitted. In other two cases, the Applicant has been released on bail.

7. Perusal of the record shows that in the present case, the incident in question occurred on 31st July 2023, F.I.R. was lodged on 1st August 2023, the Applicant was arrested on 19th August 2023 and, Charge-sheet was filed on 15th November 2023. There is

no progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there are 19 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

8. *Prima facie*, there is substance in the contention raised by Mr. Vagal, learned Counsel for the Applicant that the incident in question occurred on the spur of the moment. The F.I.R. itself clarifies that injured Namdev and Sharad after the initial scuffle with the Applicant, went away from the said Bar and thereafter again they came there with Dashrath and thereafter the incident in question occurred.

9. The Applicant has 5 antecedents registered with Tribakeshwar Police Station, Nashik, the details of the same are as follows:

Sr. No.	C.R. No.	Sections
1.	6/2015	354, 506 r/w. 34 of the IPC, 1860
2.	77/2015	143, 147, 149, 324, 323, 504 and 506 of the IPC, 1860
3.	47/2017	143, 147, 148, 149, 324, 323, 504 and 506 of the IPC, 1860
4.	108/2017	143, 147, 148, 149, 324, 323, 504 and 506 of

		the IPC, 1860
5.	176/2022	143, 147, 148, 149, 326, 504, 506, 427 of the IPC, 1860; 37(1)(3) and 135 of the Bombay Police Act, 1951.

10. As far as the antecedents at Sr. Nos.1, 2 and 3 are concerned, the Applicant has been acquitted. As far as antecedents at Sr. Nos. 4 and 5 are concerned, the Applicant has been granted bail. Two antecedents are of the year 2015, two are of the year 2017 and one is of the year 2022. In any case, the Applicant has been acquitted in 3 cases. The Applicant is a young man aged 28 years and he is labourer.

11. Out of the 6 accused persons, 3 accused namely Anil Aher, Manik Dhatrak and Jitendra Kankate have been released on bail by the learned Sessions Court. The role attributed to the present Applicant is the same as that of the Accused, who have been released on bail.

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

13. Accordingly, the Applicant can be enlarged on bail by imposing stringent conditions.

14. In view thereof, the following order:

ORDER

- (a) The Applicant - Laluman Devidas Aher be released on bail in connection with C.R. No.212 of 2023 registered with the Wadivarhe 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) The Applicant shall not enter the village-Wadivarhe 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 Trimbakeshwar Police Station, District – Nashik once a week, on every Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Trimbakeshwar Police Station, 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.

15. The Bail Application is disposed of accordingly.

16. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]

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