

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1499 OF 2024

Shivaji Vishwanath Avhad	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Aniket Vagal a/w. Ms. Savvy Kolhekar, Advocates, for the Applicant.

Mr. Sameer M. Mangaonkar, APP, for the Respondent-State.

Mr. Rathod, A.P.I., Sinnar Police Station, Nashik, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 17th APRIL 2024

P. C.:

1. Heard Mr. Vagal, learned Counsel for the Applicant and Mr. Mangaonkar, 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.	618 of 2023
2 Date of registration of F.I.R.	28/09/2023
3 Name of Police Station	Sinnar, District-Nashik
4 Section/s invoked	302, 120-B r/w. 34 of the Indian Penal Code, 1860.
5 Date of incident	26/08/2023 to 27/08/2023

6	Date of arrest	28/09/2023
7	Date of filing of Charge-sheet	25/11/2023

3. As per the prosecution case, the deceased who was the son of the Applicant was a habitual alcoholic. The deceased under the influence of alcohol used to harass, abuse, and quarrel with the neighbours and used to assault them. There are several police complaints filed against the deceased. On 25th September 2023, he assaulted one neighbour-Thakubai on her head with a wooden log. When the Applicant and his wife went to rescue said Thakubai the deceased assaulted the Applicant's wife. The deceased assaulted Thakubai mercilessly that she fell unconscious and therefore, C.R. No.615 of 2023 was registered with Sinnar Police Station, Nashik. The Applicant's wife i.e. mother of the deceased also lodged N.C. No.1371 of 2023 on 21st September 2023 against the deceased. Prior to these incidents on 23rd July 2023 one Bhagyashree Ashok Avhad, aged 65 years has also lodged N.C. No.1128 of 2023 at Sinnar Police Station *inter alia* against the deceased stating that the deceased and others have abused them, beaten them and threatened with dire consequences. As per the prosecution case, in view of these incidents and as the life of the Applicant, his wife

and daughters had become miserable, the Applicant, who is the Accused No.3 had given the Accused Nos.1 and 2 a contract to murder the deceased for a sum of Rs.70,000/-.

4. Mr. Vagal, learned Counsel for the Applicant submitted that the case is of circumstantial evidence. Nothing incriminating has been recovered at the instance of the present Applicant. He submitted that the investigation is complete and Charge-sheet has been filed. He submitted that the Applicant is aged 50 years and he is suffering from diabetes and hyper-thyroid since 8 years. He has also been diagnosed with urinary calculi and other acute illness. He submitted that there are no other criminal antecedents against the Applicant. He therefore, submitted that Bail Application be allowed.

5. On the other hand, Mr. Mangaonkar, learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that this is a case where the Applicant who is the father of the deceased, had given a contract to the Accused Nos.1 and 2 to kill the deceased and for that purpose, paid Rs.70,000/- to the Accused No.1. He submitted that therefore, the Applicant is

involved in a very serious crime and therefore, the Bail Application be rejected.

6. Perusal of the record shows that in the present case, the incident in question occurred on 27th August 2023, F.I.R. was lodged on 28th September 2023, the Applicant was arrested on 28th September 2023 and, Charge-sheet was filed on 25th November 2023. There is no progress in the trial and even the charge is also not framed yet. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

7. The Applicant is aged 50 years and suffering from various diseases.

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 – Shivaji Vishwanath Avhad be released on bail in connection with C.R. No.618 of 2023 registered with the Sinnar Police Station, District - Nashik on his furnishing P.R. Bond of Rs.25,000/- 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 Sinnar Police Station, District – Nashik as and when called by the Investigating Officer.
- (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.]