

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

BAIL APPLICATION NO. 1509 OF 2024

Dinesh Tulashiram Pote

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Jayesh Bhosale a/w. Mr. Ashish Chavan, for the Applicant.
Mr. Sameer Mangaonkar, APP, for the Respondent-State.
Mr. Manas M. Gawankar, *Amicus Curiae*.
Mr. Mohan S. Pawar, PSI-Ghodegaon Police Station, Pune (Rural),
present.

CORAM: MADHAV J. JAMDAR, J.
DATE: 22.04.2024

P. C.

1. Heard Mr. Gawankar who was appointed as Amicus Curiae by this Court by Order dated 17.04.2024, Mr. Bhosale, 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.	270 of 2020
2.	Date of registration of F.I.R.	19.12.2020
3.	Name of Police Station	Ghodegaon, Pune (Rural)
4.	Sections invoked	302, 363, 364, 365, 323, 427, 201 r/w. 34 of the I.P.C., 1860
5.	Date of incident	17.12.2020 to 19.12.2020
6.	Date of arrest	21.12.2020
7.	Date of filing of Charge-sheet	17.03.2021

3. As per the prosecution case, the deceased and the mother of the Applicant were involved in a relationship outside of marriage. The incident in question has taken place between 17.12.2020 and 19.12.2020 when the Applicant and the co-Accused assaulted the Deceased, because of the said relationship.

4. It is the contention of Mr. Gawankar, learned *Amicus* as well as Mr. Bhosale, learned Counsel for the Applicant that co-Accused- Sachin Ganpat Lande who is having a similar role as that of the Applicant, has been released on bail by a learned Single Judge (Coram: N. R. Borkar, J.) by Order dated 12.01.2023 passed in B. A. No. 3773 of 2021. Both, therefore, state that parity will apply to the present case. Investigation is complete. The Applicant is incarcerated since 21.12.2020 and till date, there is no progress in the trial and even charge is also not framed yet.

5. Mr. Mangaonkar, learned APP for the Respondent-State vehemently opposed the Bail Application. He submitted that there are two eye-witnesses to the incident. He submitted that there is recovery of a car and a plastic stick at the instance of the Applicant. He submitted that the present Applicant has a strong motive and that the Bail Application may be rejected.

6. Mr. Bhosale, learned Counsel for the Applicant submitted that even if the entire case of the prosecution is accepted as it is, then also on 17.12.2020, the Applicant and the co-Accused were assaulting the

deceased. However, the prosecution case does not show that the Applicant succumbed to the resultant injuries. Therefore, the offence punishable under Section 302 of the Indian Penal Code, 1860 ("IPC") is not made out. He submitted that the mortal remains were found after three days in a river. He therefore submitted that there is a strong possibility that the said alleged assault is not connected with the offence punishable under Section 302 of the IPC.

7. A perusal of the record shows that the incident in question has taken place on 17.12.2020. The mortal remains of the deceased were found on 21.12.2020 floating in the river. The F.I.R. was registered on 19.12.2020. The Applicant was arrested on 21.12.2020. Till date, there is no progress in the trial. As per the prosecution case, there are about 51 witnesses proposed to be examined by the prosecution. Even charge is also not framed yet. 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 of Mr. Bhosale, learned Counsel for the Applicant that the incident in question has taken place as the deceased was in a relationship outside of marriage with the mother of the Applicant. The Applicant is a young man aged 29 years.

9. The Applicant does not have any criminal antecedents.

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

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

12. In view thereof, the following order:-

ORDER

(a) The Applicant - Dinesh Tulashiram Pote be released on bail in connection with C. R. No.270 of 2020 registered with the Ghodegaon Police Station, Pune (Rural) 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 Ghodegaon Police Station, Pune (Rural) once in a month on the first Sunday of month 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.

13. The Bail Application is disposed of accordingly.

14. 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.]