

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

BAIL APPLICATION NO.1760 OF 2024

Balu @ Balashaeb Ramchandra Shirtode ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Shrikant Panhale a/w Mr. Ninad Kadam, for the Applicant.
Ms. Veera Shinde, APP, for the Respondent-State.

**CORAM: MADHAV J. JAMDAR, J.
DATE: 26 APRIL 2024**

P. C.

1. Heard Mr. Panhale, learned Counsel for the Applicant and Ms. Shinde, 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.	259 of 2022
2. Date of registration of F.I.R.	05/12/2022
3. Name of Police Station	Pusegaon, District - Satara
4. Section/s invoked	307, 326, 324, 323, 143, 147, 148, 149, 504 & 506 of the <i>I.P.C., 1860</i>
5. Section/s applied in Charge-sheet	302, 307, 326, 324, 323, 143, 147, 148, 149, 504 & 506 of the <i>I.P.C., 1860</i>
6. Date of incident	05/12/2022
7. Date of arrest	07/12/2022
8. Date of filing of Charge-sheet	03/03/2023

3. The present Applicant is Accused No.2. There are in all five Accused. Accused No.5 is the mother-in-law of the informant. Accused Nos.1 & 2 are brothers of Accused No.5. Accused No.4 is the wife of Accused No.1. Accused No.3 is the son of Accused No.2. The deceased is the father of the Informant.

4. As per the prosecution case, the incident took place on 5th December 2022. On 5th December 2020, the Accused hired a car and they went from Koregaon to Khatav, where the Informant and her family reside i.e. the Informant, her husband, and Accused No.5. Accused No.5 is the mother-in-law of the informant and she was insisting that the Informant and her husband should vacate the said residential premises. It appears that on 5th December 2022, suddenly, the incident in question has taken place at about 8.30 p.m.. An altercation took place between the family members on the same issue of vacating the residential premises by the Informant and her husband. In the said incident, father of the Informant has died. As per the prosecution case, the deceased was assaulted by the accused persons with stick, kicks and fist blows, and stones.

5. Mr. Panhale, learned Counsel for the Applicant submitted that the incident in question has taken place on the spur of the moment. He submitted that for discussing the issue and resolving the issue amongst family members, they had hired the vehicle and went there. However, the altercation took place and the same was escalated and that the incident in question took place. He submitted that the role

attributed to the present Applicant is that he has assaulted the deceased with stick. He submitted that there are in all five Accused and Accused Nos.4 & 5 were granted bail by the learned Sessions Judge. He submitted that Accused No. 3 has been granted bail by this Court by Order dated 19th March 2024 passed in B. A. No.3395 of 2023 and Accused No.1 has been granted bail by Order dated 24th April 2024 passed in Bail Application No.1711 of 2024. He submitted that the Applicant is aged 50 years. He submitted that there are no antecedents. The incident in question has taken place due to the family dispute.

6. On the other hand, Ms. Shinde, learned APP for the Respondent-State vehemently opposed the Bail Application. She pointed out that the statement of the informant on the basis of which the F.I.R. was lodged. She further pointed out the Post-Mortem Examination Report, the statements of witnesses namely Chandrakant Gopal Jagtap, Sunanda Dattatraya Chavan, and Ganesh Pundlik Jadhav. She also pointed out the statement of Vishal Ramesh Jadhav. She pointed out the spot panchanama and also the photographs of stone and stick recovered from the spot. She also pointed out the statements of Rupali Vishal Jadhav and Ashalata Sahebrao Patole recorded under Section 164(5) of the Cr.PC.. She submitted that as per the prosecution case, there are eye-witnesses and the Accused have mercilessly assaulted the deceased. She also submitted that injury caused by assault by the present Applicant is

the cause of death.

7. A persusal of the record shows that the incident in question has taken place on 5th December 2022. The Applicant was arrested on 7th December 2022. Charge-sheet was filed on 3rd March 2023. As per the Charge-sheet, there are about 27 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

8. *Prima facie*, there is substance in the contention raised by learned Counsel for the Applicant that the incident has taken place due to a long standing enmity between the family members, however, the incident in which the deceased has died, has taken place on the spur of the moment. The weapon used is a stick. *Prima facie*, there is substance in the contention that there is no premeditation as admittedly the deceased was assaulted with sticks, kicks, and fist blows and stones.

9. The Applicant is aged 50 years.

10. The Applicant does not have any criminal antecedents.

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

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

13. In view thereof, the following order:-

ORDER

- (a) The Applicant - Balu @ Balashaeb Ramchandra Shirtode be released on bail in connection with C.R. No.259 of 2022

registered with the Pusegaon Police Station, District-Satara on his furnishing PR. 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 Pusegaon Police Station, District-Satara as and when called for 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.

14. The Bail Application is disposed of accordingly.

15. 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.]