

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

CRIMINAL BAIL APPLICATION NO.1869 OF 2024

Akash *alias* Akshay Vinayak Lakhe

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Shailesh Kharat i/by Mr. Rishikesh Kale for the Applicant.
Mr. Prasanna Malshe, APP, for Respondent- State.
PSI Mr. Ganesh Mane, Pimpri Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 10th May 2024

P. C.

1. Heard Mr. Kharat along with Mr. Kale, learned Counsel for the Applicant and Mr. Malshe, 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.	639 of 2019
2.	Date of registration of F.I.R.	23 rd May 2019
3.	Name of Police Station	Pimpri, Pune
4.	Section/s invoked	302 of <i>I.P.C., 1860</i> ;
5.	Date of incident	22 nd May 2019
6.	Date of arrest	23 rd May 2019
7.	Date of filing Charge-sheet	August 2019

3. As per the prosecution case as reflected in the F.I.R. and the

statements recorded during investigation, the deceased was married to one Arun and they have 2 children from the said wedlock. One son is aged 3 years and one daughter is aged 5 years. The husband of the deceased died by suicide about 1 & ½ years ago before the incident in question. After the death of her husband, the deceased started residing with her mother at Mahatma Phule Nagar Slum, M.I.D.C. Bhosari, Pune. At that time, romantic relations developed between the Applicant and the deceased. The Applicant used to reside in Nashik. On 22nd May 2019 at about 5.30 p.m., the deceased went to the house of the Informant who lives nearby and the deceased was his niece. At that time, she informed the Informant that the Applicant had come from Nashik and therefore she would meet him and ask about the marriage. Thereafter the deceased was found lying near H.A. Colony near bungalow No.2, Pimpri.

4. During the investigation, statements were recorded showing that the Applicant and the deceased were last seen together. There are statements of various witnesses to that effect as well as C.C.T.V. footage of Hotel Khushbu, where it was found that both of them were present on 22nd May 2019 at about 9.47 p.m. to 10.21 p.m.. The said hotel is near the spot of the incident. The deceased was found at H. A. Colony at 7.20 a.m. on the next day.

5. It is the contention of Mr. Kharat, learned Counsel for the

Applicant that the case is of circumstantial evidence. The only evidence is that of last seen together and that there was a relationship between the Applicant and the deceased and a quarrel took place between them on account of the issue of marriage.

6. On the other hand, Mr. Malshe, learned APP vehemently opposed the Bail Application. He submitted that although the case is of circumstantial evidence, there are strong circumstances namely: last seen together, recovery of blood-stained clothes of the Applicant, ring and chain of the Applicant at the spot of the incident and recovery of a stone weighing 11 kgs. with blood stains on it at the spot of the incident.

7. Mr. Malshe also pointed out the injuries on the body of the deceased. He submitted that there are injuries on the neck of the Applicant. He submitted that therefore this is not a case for grant of bail. He submitted that there was a strong motive to commit the offence in question as the Applicant and the deceased were involved in romantic relationship. The Applicant had on several occasions, assured the deceased that he would marry her and thereafter, in the meanwhile, he married someone else and therefore there is a strong motive to commit the said offence. He submitted that when the Applicant was released on bail, during COVID-19 pandemic, he had not surrendered after the completion of the said period and therefore, non-bailable

warrants were required to be issued against the Applicant and then he was arrested on 22nd August 2020.

8. Perusal of the record shows that the incident in question took place on 22nd May 2019, F.I.R. was lodged on 23rd May 2019, the Applicant was arrested on 23rd May 2019 and the Charge-sheet was filed in or about August 2019. As per the Charge-sheet, there are about 19 witnesses proposed to be examined by the prosecution. Till date there is no progress in the trial and even the Charge is not framed. Therefore, the trial is likely to take a considerably long time.

9. *Prima facie*, there is substance in the contention of the learned Counsel for the Applicant that the incident in question took place on the spur of the moment as the deceased was demanding that the Applicant should marry her. This is the case where no weapon has been used and the only weapon used is a stone, which was lying at the spot of the incident. The collected evidence during investigation also shows that there are injury marks on the neck of the Applicant. Therefore, *prima facie*, due to the said contentious issue between the individuals regarding marriage with the deceased, a scuffle took place between the Applicant and the deceased and in that scuffle, the incident in question occurred. There are no antecedents.

10. The Applicant is a young married person aged 25 years. Accordingly, the Applicant can be released on bail. However, it is to be

noted that when the Applicant was enlarged on bail during COVID-19 pandemic, he had not surrendered on the due date after completion of the period of bail and then a non-bailable warrant was required to be issued against him and he was arrested on 22nd August 2020. Therefore, although the Applicant can be enlarged on bail but stringent conditions need to be imposed.

11. Mr. Kharat, learned Counsel for the Applicant states that as several witnesses are residing in Pune district, the Applicant will therefore not reside within District - Pune and that the Applicant will reside at C/o. Akshay Vinayak Lake, Old Wada Road, Bhormala Railway Station, District - Nashik.

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

13. The Applicant does not have any criminal antecedents.

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

15. In view thereof, the following order:

ORDER

(a) The Applicant - Akash *alias* Akshay Vinayak Lakhe be released on bail in connection with C.R. No.639 of 2019 registered with the Pimpri Police Station, Pune, District - Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter the Pune district 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 Nashik Road Police Station, District - Nashik once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Nashik Road 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 prosecution witnesses 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.

16. The Bail Application is disposed of accordingly.

17. 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.]