

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

BAIL APPLICATION NO. 1970 OF 2024

Dagu Jayram Ushir

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Akshay H. Bankapur, Advocate, for the Applicant.
Mr. S. S. Chaudhari, APP, for the Respondent – State.
Mr. Vijay Lokhande, H.C. B.No.1912, Vani Police Station,
Nashik(Rural), present.

CORAM: MADHAV J. JAMDAR, J.
DATE: 07.05.2024

P. C.:

1. Heard Mr. Bankapur, 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.	436 of 2023
2. Date of registration of F.I.R.	22.11.2023
3. Name of Police Station	Vani, Nashik
4. Sections invoked	302, 201, 120B of the I.P.C., 1860
5. Date of incident	22.11.2023
6. Date of arrest	27.11.2023
7. Date of filing of Charge-sheet	21.02.2024

3. The Applicant is the father of the deceased. As per the prosecution case, the deceased was a habitual alcoholic and he used

to assault his wife. The deceased had also borrowed some money on interest and therefore, the Applicant and his family were required to sell their valuable land. It is the case of the prosecution that as the Applicant i.e. father of the deceased was fed up with the deceased, he had given a contract to Accused No.1 to kill his son for an amount of Rs.20,000/-. There are in all three persons involved in the offence in question. The present Applicant is the Accused No.3. The Accused No.1 was given the contract of killing the deceased and the third person is the child in conflict with law.

4. It is the contention of Mr. Bankapur, learned Counsel for the Applicant that there is no material collected during the course of the investigation to implicate the Applicant in the offence in question. He submitted that the motive shown by the Applicant is completely false. He submitted that the prosecution is relying on an extra-judicial confession of the Applicant's wife. However, in her statement recorded under Section 164 of the CrPC, wife has not supported the prosecution case. He submitted that in the facts and circumstances of the case, the statement recorded by the Police cannot be relied upon. He submitted that the Applicant is aged 57 years. He is a labourer. There are no antecedents.

5. On the other hand, Mr. Chaudhari, learned APP vehemently opposed the Bail Application. He pointed out the statement of the wife of the Applicant – Meenatai Dagu Ushir (Page No. 93) dated 27.11.2023 as well as the statement of Gorakh Bhimrao Dale (Page

No. 95) dated 28.11.2023. He also pointed out the panchnama by which clothes and weapon were recovered at the instance of Accused No. 1. He pointed out the Post-Mortem Examination Report. He submitted that this is a case where the Applicant who is the father of the deceased had given contract to the Accused No. 1 to kill the deceased. Therefore, he prayed that the Bail Application may be rejected.

6. A perusal of the record shows that the incident in question has taken place on 22.11.2023. The F.I.R. was registered on 22.11.2023. The Applicant was arrested on 27.11.2023. The Charge-sheet was filed on 21.02.2024. As per the Charge-sheet, there are about 23 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even charge is also not framed.

7. The prosecution has mainly relied on the statement of the wife of the Applicant. However, in the statement recorded under Section 164 of the CrPC, wife of the Applicant has not supported the prosecution case. There is no material to show that the Applicant had actually given the contract to the Accused No. 1 to kill the deceased i.e. his son. The Applicant is 57 years old. The Applicant is a labourer. There are no antecedents.

8. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

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 – Dagu Jayram Ushir be released on bail in connection with C. R. No.436 of 2023 registered with the Vani Police Station, Nashik (Rural) on his furnishing P. R. Bond of Rs.15,000/- with one or two local sureties in the like amount.

(b) The Applicant is permitted to furnish cash bail surty in the sum of Rs. 15,000/- for a period of four weeks in lieu of surety.

(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 Vani Police Station, Nashik (Rural) as and when called for by 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.

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.]