

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

CRIMINAL BAIL APPLICATION NO. 1560 OF 2023

Dnyaneshwar Bhimbhishan Chavan	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

**WITH
INTERIM APPLICATION NO. 2476 OF 2023
IN
CRIMINAL BAIL APPLICATION NO. 1560 OF 2023**

Vishwan Bandu Chavan	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Ritesh Thobde a/w Mr. Changdev Shingade and Zubi Ansari, Mr. Sagar Tamabe and Ms. Ankita Rai , Advocates for Applicant.
Mr. P. H. Gaikwad, APP for State.
Ms. Vilasini B. a/w Mr. Jaydeep Mane for Intervenor.
Mr. Rajesh Bhimsen Jadhav, Mohod Police Station (Solapur Rural),.
present

**CORAM : MADHAV J. JAMDAR, J.
DATED : 23rd JANUARY 2024**

P. C.

1. Heard Mr. Thobde, learned Counsel appearing for the Applicant, Mr. Gaikwad, learned APP appearing for the Respondent-State and Ms. Vilasini B. for the Intervenor.
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.	22 of 2023
2.	Date of Registration of F.I.R.	9th January 2023
3.	Name of Police Station	Mohol Police Station, District Solapur
4.	Section/s invoked	302, 326, 324, 323, 143, 147, 148, 149, 504 and 506 of I.P.C., 1860.
5.	Date of Incident	8th January 2023
6.	Date of Arrest	9th January 2023
7.	Date of filing of Charge-sheet	6th April 2023

3. As per the prosecution case, a dispute was going on between the family of the Accused No.1- Bibhishan and family of deceased-Bandu Chavan since the past two years. Bandu and Bibhishan are cousin brothers.

4. Accused No. 4- Suman Bibhishan Chavan registered C. R. No.21 of 2023 at Mohol Police Station under Sections 324, 323, 504, 506 and 34 of *Indian Penal Code, 1860*. According to the F.I.R. in said Crime, the incident occurred at 08.00 p.m. on 8th January 2023 where Bandu Manik Chavan, Vishwas Bandu Chavan, Chhaya Bandu Chavan and Rohini Vishwas Chavan came at the residence of the Accused No.1-Bibhishan in the present Crime and started abusing said Bibhishan and his family members on the ground that goats of the family of Bibhishan had ventured into their farm. At that time, Vishwas Bandu Chavan, Chhaya Bandu Chavan, Bandu Manik Chavan

assaulted the Applicant and his other family members. The Charge-sheet has been filed in the said case. In the said case, the Informant herein is one of the accused.

5. There is a cross F.I.R. filed by the Informant-Vishwas Bandu Chavan, which is registered as C. R. No.22 of 2023 under Sections 302, 326, 324, 323, 143, 147, 148, 149, 504 and 506 of the *Indian Penal Code, 1860*. As per the prosecution case, in C. R. No. 22 of 2023, at the same time i.e. 08.00 pm., on 8th January 2023, Bibhishan-Accused No.1, Dnyaneshwar-Accused No.2 (present Applicant), Ishwar-Accused No.3, Suman-Accused No.4 and Sanika-Accused No.5 assaulted family members of Bandu Chavan with stick, stones and fist blows. It is also the case of the prosecution that the Applicant has assaulted the mother of the Informant with a pot.

6. Learned Counsel appearing for the Applicant submitted that there are cross-complaints lodged by both parties and that even in complaints filed by family of the Applicant, Charge-sheet has been filed. The Applicant has also been assaulted and has suffered injuries. He submitted that the incident had occurred suddenly. He submitted that the weapon allegedly used is a stick and the same cannot be considered to be a dangerous or sharp weapon. He further submitted that Accused

No.1 and the deceased are cousin brothers. There is a partition Suit between them and the same is the cause for altercations. He submitted that all the accused except the present Applicant, have been enlarged on bail.

7. Mr. Gaikwad, learned APP submitted that the Applicant was aware that the deceased had undergone a bypass surgery and this fact was known to the Accused, who assaulted the deceased with a stick on his chest. He submitted that the injuries are on vital parts of the body. He therefore strongly opposed the Bail Application.

8. Ms. Vilasini B., learned Counsel appearing for the Intervenor pointed out the F.I.R. and other statements of eye-witnesses and submitted that there is a specific role attributed to the present Applicant. She submitted that the deceased was assaulted with a stick on vital parts of his body. She pointed out the Post Mortem Examination Report which records that the cause of death is shock and hemorrhage due to blunt trauma to chest. She submitted that the recovery of stick is made at the instance of the Applicant.

9. She also relied on the decision of the Supreme Court in the case of *Tarun Kumar v. Enforcement Directorate*¹ and

1 2023 INSC 1006 : 2023 SCC OnLine SC 1486

particularly on paragraph no. 18 of the same. She also relied on another decision of the Supreme Court in the case of ***Kumer Singh v. State of Rajasthan***² and particularly on paragraph no. 28 of the same.

10. Perusal of the record shows that the incident had occurred on 8th January 2023 at 8.00 pm. The F.I.R. is lodged on 9th January 2023. There are cross-complaints. The Family of the Applicant has also lodged the F.I.R. bearing C. R. No.21 of 2023 and the present F.I.R. is in C. R. No.22 of 2023. The Applicant has been arrested on 9th January 2023. There are total 5 accused persons. All the accused except the present Applicant have been enlarged on bail. The Charge-sheet has been filed on 6th April 2023.

11. Perusal of both C. R. i.e. C. R. No.21 of 2023 filed by the family members of the present Applicant and the present C. R. No.22 of 2023 filed by the informant-Intervenor shows that the dispute started as quarrel over the Applicant's goats entering the farm and destroying maize crops of the informant and which led to altercations that escalated into physical assaults.

12. This is a case where the Applicant as well as family of the Applicant and deceased, both have suffered injuries. *Prima*

2 2021 INSC 343 : 2021 SCC OnLine SC 511

facie, the incident had occurred due to a sudden quarrel and in a spur of the moment. Admittedly, the deceased has died due to an assault with a stick on his chest.

13. As far as the decision in the case of *Tarun Kumar* (supra) is concerned, the Supreme Court has observed that while applying the principle of parity, the Court is required to focus upon the role attributed to the accused whose Application is under consideration. As far as the other decision of the Supreme Court in *Kumer Singh* (supra) is concerned, it has been held that at the stage of considering bail Application, the individual role of the accused is not required to be considered when they are alleged to have been the part of an unlawful assembly. In *Kumer Singh* (supra), the Supreme Court considered that there were 26 injuries found on the dead body of the deceased and 11 injuries on the injured Vikram Singh by blunt and sharp weapons and therefore, held that merely because the Accused were armed with *lathis* cannot be a ground to release the accused on bail in the facts and circumstances of that case.

14. As far as the present case is concerned, there are cross-F.I.R.'s. The factual position on record clearly shows that there was a sudden quarrel and then the incident in question has

occurred. The Applicant has also suffered injuries. In the case of *Kumer Singh* (supra) it was not the case of cross F.I.R..

15. The Supreme Court in *Tarun Kumar* (supra) has held that while applying the principle of parity, the Court is required to focus upon the role attributed to the Accused, whose Application is under consideration. Although it is clear that the role of the present Applicant is different from other co-accused and he has assaulted the deceased with stick on the chest, however, it is clear that the incident has occurred in a spur of moment. It is the deceased and his family members went to the residence of the Applicant to raise the issue that the Applicant's goats entering the farm and destroying maize crops of the informant and which led to altercations that escalated into physical assaults. Thus, the decisions cited by learned Counsel appearing for the Intervenor have no application to the facts of this case.

16. The Charge-sheet has been filed on 6th April 2023. The trial has not yet commenced. According to the prosecution case, there are 19 witnesses to be examined. The trial is likely to take a considerably long time.

17. Mr. Thobde, learned Counsel appearing for the Applicant on instructions states that as several witnesses are residing in

the same locality as that of the Applicant, the Applicant will therefore not reside within Taluka-Mohol, District-Solapur and that the Applicant will reside at Nimgaon(M), Velapur, Taluka-Malshiras, District- Solapur.

18. The Applicant does not appear to be at risk of flight.
19. The Applicant does not have any criminal antecedents.
20. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant - Dnyaneshwar Bhimbhishan Chavan be released on bail in connection with C. R. No.22 of 2023 registered with the Mohol Police Station, Taluka-Mohol, District-Solapur on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter the Taluka-Mohol, District-Solapur after being released on bail except for reporting to the Investigating Officer, if called.

(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 Velapur Police Station, Taluka-Malshiras, District-Solapur once every month, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Velapur Police Station, Taluka-Malshiras, District-Solapur 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 evidence and shall not contact or influence the Complainant or any 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.

21. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]

BHALCHANDRA
GOPAL
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