

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1710 OF 2023

Jaykishan Omprakash Singh

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. K. M. Tripathi, Advocate for the Applicant.

Ms. S. S. Kaushik, APP for the Respondent – State.

Mr. Miraj Usman Pathan, PSI, Dapoli Police Station, District-
Ratnagiri, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 05.02.2024

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1. Heard Mr. Tripathi, learned Counsel appearing for the Applicant and Ms. Kaushik, learned APP appearing 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.	01 of 2023
2. Date of Registration of F.I.R.	03.01.2023
3. Name of Police Station	Dapoli Police Station
4. Section invoked	302 of the IPC, 1860
5. Date of incident	02.01.2023
6. Date of arrest	03.01.2023
7. Date of filing Charge-sheet	31.03.2023

3. The prosecution case, as reflected in the F.I.R. and the statements annexed to the Charge-sheet, shows that the Applicant and the deceased were best friends. The Applicant travelled from Mumbai to Dapoli to meet the deceased and was residing in the house of the deceased. As per the statements of the witnesses, the Applicant travelled from Mumbai to Dapoli by Matsyagandha Express and arrived at Dapoli at about 7.15 p.m. on 01.01.2024. Immediately thereafter, the Applicant and the deceased went to a bar near the Railway Station and consumed liquor. As per the statement of Smt. Sushila, grandmother of the deceased, the Applicant and the deceased came to the house of the deceased at about 9.00 p. m. and carried some meal as well as liquor from outside and they both were consuming liquor during the entire night. It was during that time that some altercation broke out between the Applicant and the deceased. Thereafter, the Applicant and the deceased went outside. On 02.01.2023 at about 5.00 a.m., the Applicant returned alone and he immediately left with his bag. He told Smt. Sushila, grandmother of the deceased that the deceased would be coming after some time. Thereafter, in the evening on 02.01.2023, mortal remains of the deceased were found.

4. As per the prosecution case, the motive for committing the offence in question was that the deceased made a demand of the

expensive smart watch of the Applicant and therefore, an altercation took place between them.

5. Mr. Tripathi, learned Counsel appearing for the Applicant submitted that there is no direct evidence against the Applicant. The case is of circumstantial evidence and the only evidence against the Applicant is that he was last seen together with the deceased and the recovery of his cellular phone and that the Applicant has shown the spot of the incident. In any case, he submitted that the incident has taken place in a spur of the moment when both - the Applicant and the deceased were under the influence of alcohol. Insofar as the spot of the incident shown by the Applicant is concerned, he submitted that the said spot was already known to the police, as the mortal remains of the deceased were found at the same spot, even before the said spot was shown by the Applicant to the police. Therefore, bail may be granted to the Applicant.

6. On the other hand, Ms. Kaushik, learned APP appearing for the Respondent - State vehemently opposed the Bail Application and submitted that although the case is of circumstantial evidence, there are various circumstances showing involvement of the Applicant in the offence in question. She further submitted that there is a video footage of the assault committed by the Applicant on the deceased. She further submitted that the

Applicant was last seen together with the deceased.

7. As far as the contention regarding the video footage is concerned, Mr. Tripathi, learned Counsel appearing for the Applicant submitted that the video footage shows an assault on different parts of the body of the deceased and the same does not correspond with the injuries mentioned in the Post-Mortem Examination Report. She further submitted that a voice sample has been taken and a C.A. Report is awaited. The Applicant has been identified in the Test Identification Parade.

8. The incident in question has taken place between the night of 02.01.2023 and 03.01.2023. F.I.R. has been lodged on 03.01.2023. The Applicant has been arrested on 03.01.2023. Charge-sheet has been filed on 31.03.2023.

9. Even as per the prosecution case, both the Applicant and the deceased were under the influence of alcohol and both were heavily inebriated when the incident occurred.

10. The motive as alleged by the prosecution is that the deceased demanded the expensive smart watch of the Applicant. Thereafter, an altercation took place between them.

11. There is one antecedent in connection with C.R. No.116 of 2016 for an offence punishable under Section 379 r/w 34 of the *Indian Penal Code, 1860* registered with the M.I.D.C. Police Station, Andheri (East) - Mumbai. However, the said case has

concluded with an acquittal of the Applicant.

12. It is an admitted position that the investigation has been completed and that the Charge-sheet has been filed on 31.03.2023. The trial is likely to take a considerably long time.

13. The Applicant does not have other criminal antecedents except as stated hereinabove.

14. Mr. Tripathi, learned Counsel appearing for the Applicant submits that the Applicant is a permanent resident of Andheri (East) and that he will report to the M.I.D.C. Police Station, Andheri (East).

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

16. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant - Mr. Jaykishan Omprakash Singh be released on bail in connection with C.R. No.01 of 2023 registered with the Dapoli Police Station, District-Ratnagiri on his furnishing P.R. Bond of Rs.25,000/- with one or two 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 M.I.D.C. Police Station, Andheri (East) - Mumbai, on the first Sunday of every 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 evidence and shall not contact or influence the Complainant or any witnesses 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.

17. The Bail Application is disposed of accordingly.

18. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its merits and uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]