

BHALCHANDRA
GOPAL DUSANE

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

CRIMINAL BAIL APPLICATION NO.1954 OF 2023

Rafik Miralal Nadaf

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ritesh Thobde a/w Mr. Changdev Shingade, Ms. Ankita Rai and Zubi Asif Ansari, Advocates, for the Applicant.
Ms. Savita Yadav, APP, for Respondent- State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 15th March 2024

P. C.

1. Heard Mr. Thobde, learned Counsel for the Applicant and Ms. Yadav, 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.	368 of 2022
2.	Date of registration of F.I.R.	29th August 2022
3.	Name of Police Station	Valsang, District- Solapur
4.	Section/s invoked	302, 307, 326, 323, 504, 506 r/w 34 of <i>I.P.C., 1860</i> ;
5.	Date of incident	28th August 2022
6.	Date of arrest	30th August 2022
7.	Date of filing of Charge-sheet	18th November 2022

3. The prosecution case is that, the deceased and the Accused No.1 are real brothers. As per the prosecution case, on 28th August 2022, when the informant i.e. the wife of the deceased, deceased and the Accused No.1 were at house, one Saifan Jamadar came and informed the deceased to pay Rs.500/- for taking rent of utensils and at that time the deceased told said Saifan Jamadar that the said Rs.500/- be demanded from the Applicant and if the Applicant refuses to pay the same, then the deceased would pay the same.

4. The incident in question took place at 9.30 a.m. on 28th August 2022, due to above incident of asking Saifan Jamadar by the deceased to seek Rs.500/- from the present Applicant. As per the prosecution case, a quarrel took place and the Accused assaulted the deceased with a stone and also with an iron rod. There are total 4 Accused. The Accused No.1 is father of the present Applicant-Accused No. 2 and the Accused No.3, and Accused No.4 is the wife of Accused No.1.

5. Mr. Thobde, learned Counsel for the Applicant submitted that the incident in question took place on the spur of the moment and in a sudden quarrel. He submitted that except the present Applicant i.e. Accused No.2, all other Accused have been released on bail. He submitted that the Applicant is a young person aged 28 years. He therefore submitted that the Applicant is in custody since more than 1 year 6 months.

6. On the other hand, Ms. Yadav, learned A.P.P. vehemently opposed the Bail Application and submitted that there are total 6 eye-witnesses to the incident. She submitted that all the Accused have mercilessly assaulted the deceased and therefore, the Bail Application be rejected.

7. As per the prosecution case, the incident took place on 28th August 2022, F.I.R. was lodged on 29th August 2022, the Applicant was arrested on 30th August 2022 and the Charge-sheet was filed on 18th November 2022. As per the Charge-sheet, the prosecution has proposed to examine 29 witnesses and therefore the trial is likely to take a considerably long time.

8. Prima facie, there is substance in the contention of the learned Counsel for the Applicant that the incident has taken place on the spur of the moment. There is no pre-planning.

9. Mr. Thobde, learned Counsel appearing for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within District-Solapur and that the Applicant will reside at Umruga, Taluka- Tuljapur, District - Osmanabad.

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

11. The Applicant does not have any criminal antecedents.

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

13. In view thereof, the following order:-

ORDER

(a) The Applicant - Rafik Miralal Nadaf be released on bail in connection with C. R. No.368 of 2022 registered with the Valsang Police Station, District - Solapur on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter the Solapur 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 Itkal Police Station, District - Osmanabad once every month, on first Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Itkal Police Station, District - Osmanabad 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.

14. The Bail Application is disposed of accordingly.

15. 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.]