

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

BAIL APPLICATION NO.2176 OF 2023

1. Vishnu Raju Gadhave
 2. Rahul @ Lalya Pandurang Bhangre
 3. Tejas Prabhakar Phasale
- ...Applicants

Versus

The State of Maharashtra

...Respondent

Mr. Pratik Kalantri a/w Shyam Badode & Renuka Shukla, for the Applicants.

Mr. Shriram S. Chaudhari, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 19th APRIL 2024

P. C.:

1. Heard Mr. Kalantri, learned Counsel for the Applicants 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.	226 of 2022
2	Date of registration of F.I.R.	17/11/2022
3	Name of Police Station	Gangapur, District-Nashik
4	Section/s in F.I.R.	302 of the <i>I.P.C., 1860</i>
5	Section/s in Charge-sheet	302, 143 & 149 of <i>I.P.C., 1860</i>
5	Date of incident	09/11/2022
6	Date of arrest	01/12/2022
7	Date of filing Charge-sheet	07/02/2023

3. As per the prosecution case, the Accused No.1, deceased and other Accused persons were involved in the scrap business. As per the prosecution case, there was some dispute regarding distribution of money between all the accused persons and the deceased. Therefore, Accused No.1 was of the opinion that the deceased should be killed. As per the prosecution case, therefore the Accused No.1 called other accused persons and the deceased at Goda Park at Nashik and they all consumed liquor over there. As per the prosecution case, at the relevant time the present Applicants who are Accused Nos.2, 3, and 4 were keeping a watch on the road and at that time Accused No.1 and one unknown person killed the deceased by throttling him and his body was thrown in the river.

4. Mr. Kalantri, learned Counsel for the Applicants submitted that the case is of circumstantial evidence. There are no incriminating circumstances against the Applicants. In any case, he submitted that the role attributed to the present Applicants is that they were keeping a watch on the road. He submitted that as per the prosecution case, Accused No.1 and one unknown person had participated in the assault on the deceased. He submitted that the incident in question took place on 9th November 2022 and the Accused No.1 died by suicide on 13th November 2022. He submitted that there are no antecedents against the

Applicants.

5. On the other hand, Mr. Chaudhari, learned APP points out various statements of witnesses and submitted that the deceased was killed as a result of a conspiracy between all the accused persons and the Applicants have actively participated in the said conspiracy. He submitted that when Accused No.1 and said unknown accused person were committing the actual offence of murder of the deceased, the Applicants i.e. Accused Nos.2, 3, and 4 were keeping a watch on the road to ensure that no strangers would witness the crime in question. He therefore submitted that the Applicants were actively involved in the incident in question. He therefore submitted that the Bail Application be rejected.

6. Perusal of the record shows that the incident in question took place on 9th November 2022. F.I.R. was lodged on 17th November 2022 and the Applicants were arrested on 1st December 2022. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 7th February 2023. As per the Charge-sheet, there are a total of 38 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the charge is also not framed yet. The trial is likely to take a considerably long time.

7. The case is of circumstantial evidence. *Prima facie* there is substance in the contention raised by learned Counsel for the Applicants

that except for the role of keeping a watch on strangers at the relevant time, no active role has been attributed to the present Applicants.

- 8.** The Applicants are very young persons.
- 9.** The Applicants do not have any criminal antecedents.
- 10.** The Applicants do not appear to be at risk of flight.
- 11.** Accordingly, the Applicants can be enlarged on bail by imposing conditions.
- 12.** In view thereof, the following order:-

O R D E R

- (a) The Applicant No.1-Vishnu Raju Gadhave, Applicant No.2-Rahul *alias* Lalya Pandurang Bhangre, and Applicant No.3-Tejas Prabhakar Phasale be released on bail in connection with C.R. No.226 of 2022 registered with the Gangapur Police Station, District-Nashik on their furnishing PR. Bond of Rs.25,000/-each with one or two local solvent sureties in the like amount.
- (b) On being released on bail, the Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicants shall report to the Gangapur Police Station, District-Nashik once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.
- (d) The Applicants 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 Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicants shall attend the trial regularly. The Applicants shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicants shall surrender their 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.]