

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

CRIMINAL BAIL APPLICATION NO. 2219 OF 2023

Sagar Laxman Shinde

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Tohid Shaikh i/by Ms. Anjali Patil, Advocates, for the Applicant.
Mr. P.P. Deokar, APP, for Respondent-State.
P.S. Pawar, PSI, Trimbakeshwar Police Station present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 26th April 2024

P. C.

1. Heard Mr. Shaikh, learned Counsel for the Applicant and Mr. Deokar, 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.	88 of 2019
2. Date of registration of F.I.R.	5 th October 2019
3. Name of Police Station	Trimbakeshwar, District-Nashik
4. Section/s invoked	302, 504 and 506 of <i>I.P.C., 1860</i> ;
5. Date of incident	4 th October 2019
6. Date of arrest	5 th October 2019
7. Date of filing of Charge-sheet	1 st January 2020

3. At the outset, Mr. Shaikh, learned Counsel for the Applicant

pointed out that this is the second Bail Application. The first Bail Application was allowed to be withdrawn by a learned Judge (Smt. Anuja Prabhudessai, J.) by Order dated 22nd August 2022. Mr. Shaikh further submitted that the Applicant was arrested on 5th October 2019. The Applicant is incarcerated since 4 years and 6 months. He submitted that there is no progress in the trial and even the Charge is not framed yet. He therefore submitted that due to the prolonged incarceration, the Applicant is entitled to be released on bail. He further submitted that although one of the offence is punishable under Section 302 of Indian Penal Code, 1860, the position on record shows that the offence took place on very trivial ground. He submitted that the Applicant was not residing with his wife and nephew of the deceased had given his phone number to the wife-Priyanka and therefore the Applicant was furious with the nephew-Tushar and the incident took place due to the said reason.

4. On the other hand, Mr. Deokar, learned APP vehemently opposed the Bail Application. He submitted that first Bail Application was allowed to be withdrawn and therefore merits cannot be considered. He submitted that there are eye-witnesses to the incident. He submitted that there is an antecedent being C.R. No.457 of 2015 registered with Trimbakeshwar Police Station for the offence punishable under Section 307 of IPC and therefore the Bail Application be rejected.

5. There is substance in the contention raised by learned APP that as this is the second Bail Application, merits can not be considered.
6. Perusal of the record shows that the Applicant was arrested on 5th October 2019, F.I.R. was lodged on 5th October 2019 and the Charge-sheet was filed on 1st January 2020. As per Charge-sheet, there are about 23 witnesses proposed to be examined by the prosecution. Accordingly, considerable time will be required for conclusion of the trial. Thus although the Applicant is incarcerated for more than 4 years and 6 months, there is no progress in the trial and even the Charge is also not framed.
7. Mr. Shaikh, learned Counsel 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 Taluka-Trimbakeshwar, District - Nashik and that the Applicant will reside at his sister's residence at C/o Sima Hiranman Pawar, 50, Main Road, Ambedkar Chowk, Swar Baba Nagar, Ashok Nagar, Satpur, District - Nashik.
8. The Applicant does not appear to be at risk of flight.
9. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
10. In view thereof, the following order:-

ORDER

(a) The Applicant – Sagar Laxman Shinde be released on bail in connection with C.R. No.88 of 2019 registered with the Trimbakeshwar Police Station, Nashik, District - Nashik on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter Taluka Trimbakeshwar District-Nashik 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 Satpur Police Station, Nashik, District - Nashik once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Satpur Police Station, Nashik, District - Nashik 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.

11. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]