

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

CRIMINAL BAIL APPLICATION NO. 2282 OF 2023

Manoj Mohan Kande

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Abhay A. Jadhavar, Advocate, for the Applicant.
Mr. P.P. Deokar, APP, for Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 24th April 2024

P. C.

1. Heard Mr. Jadhavar, 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.	804 of 2021
2.	Date of registration of F.I.R.	30 th September 2021
3.	Name of Police Station	Hadapsar, District-Pune
4.	Sections invoked	307, 302 of <i>I.P.C., 1860</i> ;
5.	Date of incident	30 th September 2021
6.	Date of arrest	30 th September 2021
7.	Date of filing Charge-sheet	27 th December 2021

3. As per the prosecution case the Applicant and the deceased were very good friends. The Applicant was in need of about Rupees Ten Lakhs

and therefore in the year 2020, the deceased, by borrowing the said amount from his brother-in-law, lent the money to the Applicant as the Applicant had assured that the said amount would be returned within a period of one year. However, thereafter in spite of repeated demands for returning the said amount, the Applicant failed to return the same to the deceased. As per the prosecution case, on 29th September 2021 at about 8.30 p.m., the deceased received a phone call from the Applicant and he informed the deceased to immediately reach his place so that the money could be returned to him. The deceased went immediately and lived with the Applicant in the night at the house of the Applicant. On 30th September 2021 at about 10.00 a.m., the Applicant took the deceased near Sanket Vihar and thereafter he doused the deceased with petrol and set him on fire. The deceased succumbed to the resultant burn injuries on 30th September 2021. The deceased had made a dying declaration narrating the incident. The deceased also narrated the incident to one Jadhav.

4. It is the contention of Mr. Jadhavar, learned Counsel for the Applicant that there are no eye-witnesses to the incident. The case is based on circumstantial evidence. The Applicant is in jail since 30th September 2021 and till date, there is no progress in the trial and even the Charge is also not framed yet. He submitted that there are several lacunae in the dying declaration. Mr. Jadhavar fairly pointed out that

there is one antecedent being Special Case (Atro) No.36/2014 filed under Sections 302, 201 of *IPC* and under Sections 3(ii)(v) of the *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*. He tendered the Judgment and Order dated 30th June 2014 of the learned Special Judge, Bhoom and submitted that in the said case, he has been acquitted for the offences alleged.

5. On the other hand, Mr. Deokar, learned APP vehemently opposed the Bail Application. He submitted that although the case is of circumstantial evidence and the circumstances are very strong. He pointed out the dying declaration dated 30th September 2021 (page-18) and statement of Yuvraj Baburao Jadhav (page-166). He therefore submitted that the Bail Application be rejected.

6. Perusal of the record shows that the incident in question took place on 30th September 2021, F.I.R. was lodged on 30th September 2021, the Applicant was arrested on 30th September 2021 and the Charge-sheet was filed on 27th December 2021. As per the Charge-sheet, prosecution proposes to examine about 55 witnesses. Till date, there is no progress in the trial and even Charge is not framed yet.

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

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

9. In view thereof, the following order:-

ORDER

(a) The Applicant – Manoj Mohan Kande be released on bail in connection with C.R. No.804 of 2021 registered with the Hadapsar, Pune Police Station, District - Pune on his furnishing PR. 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 Hadapsar, Pune Police Station, District - Pune once a week on Sunday of every week 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 prosecution evidence and shall not contact or influence the Complainant

or any prosecution witness 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.

10. The Bail Application is disposed of accordingly.

11. 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.]