

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

BAIL APPLICATION NO.2330 OF 2023

Niranjan Surendra Sahani

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Savvy Kolhekar a/w Divesh Mehani i/b Aniket Vagal, for the Applicant.

Mr. P. P. Malshe, APP, for the Respondent-State.

Mr. Palve, P.S.I., Saswad Police Station, District-Pune, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : MARCH 20, 2024

P.C.:

1. Heard Ms. Kolhekar, learned Counsel for the Applicant and Mr. Malshe, 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.	262 of 2021
2	Date of registration of F.I.R.	09/07/2021
3	Name of Police Station	Saswad, District-Pune
4	Section/s invoked	302 of the <i>I.P.C., 1860</i>
5	Date of incident	08/07/2021-09/07/2021
6	Date of arrest	13/01/2021
7	Date of filing Charge-sheet	08/10/2021

3. As per the prosecution case, the Applicant and the deceased were

friends and both of them used to consume liquor together. The incident in question took place on the intervening night of 8th July 2021 to 9th July 2021. On that day, both of them consumed liquor together and thereafter an altercation took place between both of them on the point that the deceased had consumed the Applicant's share of liquor and thereafter in the said altercation the Applicant assaulted the deceased with a wooden log.

4. Ms. Kolhekar, learned Counsel for the Applicant submitted that the incident in question took place on the spur of the moment. The case is of circumstantial evidence. There is no motive attributed to the Applicant. The Applicant is in custody for about 2 years and 8 months. He submitted that except framing of the charge on 14th August 2023 there is no further progress in the trial.

5. On the other hand, Mr. Malshe, learned APP strongly opposed the Bail Application. He submitted that the Applicant mercilessly assaulted the deceased with a wooden log and that the Applicant is from Nepal and therefore there is a possibility that the Applicant will not be available for the trial.

6. Ms. Kolhekar, learned Counsel for the Applicant submitted that the Applicant has come to India for work and when the incident in question took place he was working at Pune. She submitted that the Applicant will report to the Police Station periodically and the Applicant

will be available for the trial.

7. Perusal of the record shows that the incident in question took place on the intervening night of 8th July 2021 and 9th July 2021.. F.I.R. was registered on 9th July 2021. The Applicant was arrested on 13th July 2021. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 8th October 2021. As per the Charge-sheet, there are a total of 28 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

8. *Prima facie* there is substance in the contention that the incident in question took place on the spur of the moment. Although the native place of the Applicant is Nepal, he can be released on bail by imposing stringent conditions.

9. The Applicant does not have any criminal antecedents.

10. Although the Applicant is from Nepal by imposing strict conditions the Applicant can be enlarged on bail. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

11. In view thereof, the following order:-

ORDER

- (a) The Applicant-Niranjan Surendra Sahani be released on bail in connection with C.R. No.262 of 2021 registered with the Saswad Police Station, District-Pune on his furnishing PR. Bond of Rs.25,000/- with one or two 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 Saswad Police Station, District-Pune twice in a week i.e. on every Sunday and Thursday between 11.00 a.m. and 1.00 p.m. for six months and thereafter on every Sunday 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 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.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]