



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2368 OF 2023

Yuvraj Jambu Kamble
Versus
The State of Maharashtra

...Applicant
...Respondent

Mr. Aniket Vagal, Advocate, for the Applicant.
Ms. S. S. Kaushik, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 7th MARCH 2024

PC:-

1. Heard Mr. Vagal, learned Counsel for the Applicant and Ms. Kaushik, 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.	427 of 2022
2.	Date of registration of F.I.R.	29/06/2022
3.	Name of Police Station	Bharti Vidyapeeth Police Station, Pune
4.	Section/s invoked	302, 201, 202, 404, 511, 109, 114, 115, 506 r/w. 34 of the I.P.C., 1860

5.	Date of incident	26/06/2022 to 27/06/2022
6.	Date of arrest	04/07/2022
7.	Date of filing of Charge-sheet	23/09/2022

3. As per the prosecution case, the incident in question occurred opposite 'New Pyasa Bar and Restaurant' at Survey No.41, in front of 'Shree Sai Motors', Bhumkar Chowk, Ambegaon, Pune on 26th June 2022 at about 5.39 p.m.. The deceased parked his motorcycle outside said 'New Pyasa Bar and Restaurant', and went inside the said bar. At about 7.30 p.m., he came out and went towards his motorcycle. However, as other vehicles were parked there obstructing removal of his motorcycle, it was not possible for him to move his motorcycle. He requested persons who were standing there, to help him in clearing the said obstruction and at that time some altercation occurred and the Applicant along with about 8 persons, assaulted the deceased with fist blows. There are total 9 Accused, out of which 7 have been granted bail by the learned Sessions Court and 1 Accused has been granted bail by a learned Single Judge [N. R. Borkar, J.] by order dated 13th March 2023 passed in Bail Application No.50 of 2023.

4. Mr. Vagal, learned Counsel for the Applicant submitted that there are total 9 Accused. Except the Applicant, all other Accused have been enlarged on bail. The Applicant is a young man aged 20 years. He submitted that the role attributed to the present Applicant is that he gave multiple fist blows on the ribs and abdomen of the deceased. He submitted that the incident in question occurred on the spur of the moment and without any premeditation. He submitted that the Applicant is entitled to be released on bail on the ground of parity. All other Accused who have been attributed a similar role as that of the Applicant, have been enlarged on bail.

5. On the other hand, Mr. Malshe, learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that the Applicant has been attributed the role of the main assailant and therefore, the Bail Application be rejected.

6. Perusal of the record shows that in the present case, the incident in question occurred on 26th June 2022, F.I.R. was lodged on 29th June 2022, the Applicant was arrested on 4th July 2022 and, Charge-sheet was filed on 23rd September 2022. There is no

progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there are 83 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

7. By Order dated 13th March 2023 passed in Bail Application No.2368 of 2023, a learned Single Judge granted bail to the co-Accused. Paragraph Nos.4 and 5 of the said Order read as under:-

“4. According to the prosecution, on the date of alleged incident which took place on 26 June 2022, the present applicant and other co-accused assaulted the deceased by fist and kick blows as dispute arose between them on account of parking of vehicles. According to the prosecution, due to said assault the deceased got injured and died due to shock and hemorrhage due to laceration of spleen associated with head injury.

5. I have perused the statements of eye-witnesses. Prima facie, the incident does not appear to be premeditated. There are no other criminal antecedents. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on bail. In the result, the following order is passed.....”

Therefore, parity is applicable to the present Applicant.

8. There are no criminal antecedents against the present Applicant.
9. The Applicant does not appear to be at risk of flight.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
11. In view thereof, the following order:-

ORDER

- (a) The Applicant – Yuvraj Jambu Kamble be released on bail in connection with C. R. No.427 of 2022 registered with the Bharti Vidyapeeth Police Station, Pune on his furnishing P. R. 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 Bharti Vidyapeeth Police Station, Pune on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. for one year.
- (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, and uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]