

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2376 OF 2023

Biru Ganesh Mahto

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Shubham Singh i/b. Mr. Raviraj Paramane, Advocate for the Applicant.

Ms. Supriya Kak, APP for the Respondent-State.

Mr. R. P. Shid, P.S.I.-Vadkhal Police Station present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 15th FEBRUARY 2024

PC:-

1. Heard Mr. Shubham Singh, learned Counsel appearing for the Applicant and Ms. Kak, learned APP appearing 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.	16 of 2022
2.	Date of registration of F.I.R.	29/01/2022
3.	Name of Police Station	Vadkhal Police Station, District-Raigad
4.	Section/s invoked	307 of the I.P.C., 1860

5.	Date of incident	29/01/2022
6.	Date of arrest	29/01/2022
7.	Date of filing of Charge-sheet	11/05/2022

3. As per the prosecution case, the Applicant was working as labourer with the injured and as the Applicant was making mistakes in operating the poclain machine, the injured used to assault the Applicant and therefore the Applicant was furious with the injured and the Applicant assaulted the injured with an iron sickle on vital part of the body.

4. Mr. Singh, learned Counsel appearing for the Applicant submitted that the Applicant was working as a labourer and the incident in question has occurred as the injured used to assault the Applicant on the ground that he was not able to operate the said poclain machine. He submitted that the Applicant is behind bar for about 2 years. He submitted that there is no progress in the trial and even the charge is also not framed yet.

5. On the other hand, Mr. Kak, learned APP appearing for the Respondent-State submitted that the offence is very serious. She submitted that there is a likelihood that the Applicant will abscond

and it will be difficult to secure his presence as the Applicant had fled from Police custody as well as Judicial custody. Therefore, she prayed that the Bail Application be rejected.

6. Perusal of the record shows that the incident in question has occurred on 29th January 2022, F.I.R. was lodged on 29th January 2022 and the Applicant has been apprehended on the same day. Charge-sheet has been filed on 21st October 2022. Till date, there is no further progress in the trial. As per the Charge-sheet there are about 16 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. The Applicant does not have any criminal antecedents.

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

9. As far as the apprehension of learned APP that it will be difficult to secure the presence of the Applicant is concerned, stringent conditions can be imposed. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

10. In view thereof, the following order:-

ORDER

- (a) The Applicant-Biru Ganesh Mahto be released on bail in connection with C. R. No.16 of 2022 registered with the Vadkhal Police Station, District-Raigad on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent local 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 Vadkhal Police Station, District-Raigad 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 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.

11. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]