

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

BAIL APPLICATION NO.2400 OF 2023

Namdev Walchand Rathod

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Satyavrat Joshi a/w. Ms. Shivani Kondekar i/b. Mr. Sameer Pawar, Advocates, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 27.02.2024

P. C.

1. Heard Mr. Joshi, learned Counsel appearing for the Applicant and Ms. Kaushik, 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.	230 of 2022
2.	Date of registration of F.I.R.	12.03.2023
3.	Name of Police Station	Hinjewadi Police Station, Pune
4.	Sections invoked	37(1), 135 of the Maharashtra Police Act, 1951
5.	Date of incident	11.03.2023
6.	Date of arrest	12.03.2023
7.	Date of filing of Charge-sheet	May, 2023

3. The deceased is the wife of the Applicant. As per the prosecution case, the Applicant was a habitual alcoholic and he used to harass and ill-treat the deceased. Therefore, before six months, the deceased left the house of the Applicant and was residing in the house of her mother along with her son aged 7-8 years. On 07.03.2023, the Applicant came to the house of his in-laws and stayed there for about four days. On 11.03.2023, the Applicant was insisting that the deceased and her son should come and reside with him at Sangli. Therefore, some altercation took place between the Applicant and the deceased. The deceased then was going to Hinjewadi Police Station, Pune for lodging a complaint against the Applicant when the Applicant followed her and eventually assaulted the deceased with a knife.

4. Mr. Joshi, learned Counsel appearing for the Applicant submitted that the incident in question occurred on 11.03.2023. The Applicant was apprehended on 12.03.2023 and Charge-sheet was filed some time in May 2023. He submitted that the incident in question took place as the deceased i. e. wife of the Applicant was not co-habiting with the Applicant.

5. On the other hand, Ms. Kaushik, learned APP appearing for the Respondent – State vehemently opposed the Bail Application.

She submitted that the incident in question has not taken place in a spur of the moment and that the Applicant killed his wife with pre-planning. She pointed out that the Applicant has mercilessly assaulted the deceased and there are about 20 wounds on the body of the deceased. She submitted that there are eye-witnesses to the incident. Even in the test identification parade, the Applicant has been identified by the eye-witnesses. There are about 17 witnesses proposed to be examined by the prosecution. Therefore, she submitted that bail may not be granted to the Applicant.

6. A perusal of the record shows that the incident in question has taken place on 11.03.2023. The Applicant was apprehended on 12.03.2023. The Charge-sheet was filed in May 2023. When the Charge-sheet was filed, T. I. Parade was not conducted. During pendency of this Bail Application, T. I. Parade has also been conducted.

7. As per the Charge-sheet, there are about 17 witnesses proposed to be examined by the prosecution. Therefore, the trial will not conclude shortly and will require considerable time.

8. As per the prosecution case, the deceased was not residing with the Applicant i.e. her husband, as the Applicant was a habitual alcoholic. He used to harass and ill-treat her under the

influence of alcohol. The deceased along with her son aged 7-8 years was residing at her mother's house. The Applicant was insisting that the deceased should come and co-habit with him along with their son. Therefore, the quarrel has taken place between them and in that quarrel, the incident in question has occurred.

9. There are no antecedents against the Applicant.

10. Mr. Joshi, learned Counsel appearing for the Applicant submitted that the Applicant is a resident of Jat and as most of the witnesses are from District - Pune, he will not enter the District - Pune. He further submitted that he will reside at the residence of Mr. Namdev Valu Rathod, Dhul Raravadi Laman Tanda, Post - Asangi Turk, Taluka - Jat, District - Sangli and will attend the Umadi Police Station, Jat, District - Sangli.

11. The trial is likely to take a considerably long time.

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

13. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant - Namdev Walchand Rathod be released on bail in connection with C. R. No.230 of 2023 registered with the Hinjewadi Police Station, District - Pune on his furnishing P. R.

Bond of Rs.25,000 /- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter the Pune district 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 Umadi Police Station, Jat, District - Sangli on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of the Umadi Police Station, Jat, District - Sangli 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 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.

14. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]