

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

BAIL APPLICATION NO.2418 OF 2023

Avinash Shivaji Bhoir

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. A. P. Mundargi, Senior Counsel a/w Mr. Shailesh D. Chavan, Mr. Sachin Arude & Mr. Hrishikesh Avhad, for the Applicant.
Mr. Pankaj P. Deokar, APP, for the Respondent-State.

**CORAM: MADHAV J. JAMDAR, J.
DATED: 19 MARCH 2024**

P. C.

1. Heard Mr. Mundargi, learned Senior 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.	35 of 2022
2	Date of registration of F.I.R.	21/01/2022
3	Name of Police Station	Talegaon Dabhade, District-Pune
4	Section/s invoked	302, 201, 504 & 506 of the I.P.C., 1860; 3, 25, & 27 of the Arms Act, 1959.
5	Date of incident	21/01/2022
6	Date of arrest	25/01/2022
7	Date of filing Charge-sheet	March 2022

3. As per the prosecution case as reflected in F.I.R., on 21st January 2020 at about 09.45 p.m. the Applicant came in front of the house of the Informant. He abused the son of the Informant, i.e. Rohan and also threatened to kill him. Thereafter, the Applicant took out a firearm and fired two bullets. One bullet hit the chest of the Rohan-deceased and the other one hit on the upper left arm of the deceased. The Informant and his other son Rohit made an attempt to catch hold of the Applicant and the Applicant fell down and sustained injuries on his hand and head. But, thereafter the Applicant left his motorcycle there and fled towards the temple. Rohan was rushed to a hospital where the doctors examined him and declared him as dead.

4. Mr. Mundargi, learned Senior Counsel pointed out the statements of, the Informant (Page 33), Rohit @ Prem Chandrakant Yewale (Page 78), Hamid Malik (Page 76), Vidya Vasant Kate (Page 68) and Vikas Parshuram Pashale (Page 70) and submitted that in fact the Informant's son Rohit assaulted the Applicant with an iron rod and the deceased Rohan was assaulting the Applicant with a sword and therefore the Applicant pulled out the pistol which he was carrying and fired at Rohan in self-defence. He submitted that in any case the Applicant is incarcerated since more than two years and that there is no further progress in the trial. He submitted that there are no antecedents against the Applicant.

5. On the other hand, Mr. Deokar, learned APP strongly opposed the Bail Application. He submitted that there are eye-witnesses to the incident. The Applicant has fired at the deceased-Rohan who succumbed to the resultant injuries caused by the gunshots. He submitted that the offence is very serious. He submitted that there is one antecedent, bearing C.R. No.8 of 2019 for the offence punishable under Sections 143, 147, 148, 149, 341, 324, 323, 504 & 506 of the *Indian Penal Code, 1860*. Mr. Deokar, learned APP also submitted that there is a recovery of a pistol at the instance of the Applicant.

6. A perusal of the record shows that the incident in question took place on 21st January 2022. F.I.R. was lodged on 21st January 2022 and the Applicant was arrested on 25th January 2022. The Charge-sheet has been filed in March 2022. As per the Charge-sheet there are a total of 32 witnesses proposed to be examined by the prosecution. Till date there is no progress in the trial and even the charge is also not framed. Accordingly, the trial is likely to take a considerably long time.

7. It is also important to note that the Applicant was arrested on 25th January 2022 in a hospital. The injuries of the Applicant are on the left hand and head. The injuries are grievous.

8. *Prima facie* there is a possibility that the Applicant fired the pistol at the deceased as both the sons of the Informant i.e. deceased and Rohit were assaulting the Applicant with an iron rod and a sword.

However, it is also required to be noted that the Applicant was carrying a firearm. There is one antecedent of the year 2019. Although in the facts and circumstances of this case the Applicant is entitled to be released on bail, stringent conditions are required to be imposed.

9. Mr. Mundargi, learned Senior Counsel for the Applicant after taking instructions states that as several witnesses are from Taluka-Maval, District-Pune, the Applicant will therefore not reside within Taluka-Maval, District-Pune and that the Applicant will reside at his sister's house at C/o. Arti Rohit Khaire, Flat No.103, Padale Heights, Maharaj Chowk, Mahalunge, Mulshi-411 045.

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

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

12. In view thereof, the following order:-

ORDER

- (a) The Applicant-Avinash Shivaji Bhoir be released on bail in connection with C.R. No.35 of 2022 registered with the Talegaon Dabhade Police Station, District-Pune on his furnishing P.R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Taluka- Maval, District-Pune 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 Mahalunge Police Station, District-Pune twice in a week i.e. on Sunday and Wednesday between 11.00 a.m. and 1.00 p.m. for one year and thereafter once every week, on Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Mahalunge Police Station, District-Pune 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 witness 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.

13. The Bail Application is disposed of accordingly.

14. 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.]