

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

BAIL APPLICATION NO.2413 OF 2023

Khalil Noormohammad Shah ...Applicant
Versus
 The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION (ST) NO.5350 OF 2024
 IN
BAIL APPLICATION NO.2413 OF 2023

Chahabai Baburao Zalte ...Applicant
Versus
 The State of Maharashtra ...Respondent

Mr. Hrishikesh P. Giri a/w Mr. Swapnil R. Chopade, for the Applicant.
 Mr. P. P. Deokar, APP, for the Respondent-State.
 Ms. Aprajita Mahto a/w Mr. Kalpesh M. Karkera, for the Intervenor.

CORAM: MADHAV J. JAMDAR, J.
DATED: 21st MARCH 2024

P. C.

1. Heard Mr. Giri, learned Counsel for the Applicant, Mr. Deokar, learned APP for the Respondent-State and Ms. Mahto, learned Counsel for the Intervenor.
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.	374 of 2022
2	Date of registration of F.I.R.	12/10/2022
3	Name of Police Station	Chandwad, District-Nashik
4	Section/s invoked	302, 307 & 120-B of the <i>I.P.C., 1860</i>

5	Date of incident	12/10/2022
6	Date of arrest	14/10/2022
7	Date of filing Charge-sheet	10/01/2023

3. As per the prosecution case, there are three Accused persons. Accused No.3 is the wife of the deceased. Accused No.1 and Accused No.3 were involved in a relationship outside of marriage. The present Applicant is Accused No.2 who is friend of Accused No.1.

4. As per the prosecution case, the Accused conspired together to kill the deceased due to the said relationship outside of marriage between the Accused No.1 and the Accused No.3.

5. Mr. Giri, learned Counsel for the Applicant submitted that as far as the present Applicant who is Accused No.2 is concerned, there is no motive to commit the offence in question and his role is that he assaulted the Injured i.e. the father of the deceased, with a wooden stick. He submitted that the Applicant is not involved in commission of crime punishable under Section 302 of the *Indian Penal Code, 1860*. He submitted that the only evidence against the Applicant is the Test-Identification Parade wherein the Injured has identified the Applicant. He submitted that the said Test-Identification Parade was conducted after a period of two months. He submitted that there are no antecedents against the Applicant.

6. Mr. Deokar, learned APP and Ms. Mahto, learned Counsel for the Intervenor strongly opposed the Bail Application. Both of them

submitted that the Applicant has participated in the conspiracy to kill the deceased as Accused No.1 and Accused No.3 were involved in a relationship outside of marriage. The Accused No.3 filed false F.I.R. to mislead the prosecution. They submitted that he has actively participated in the said crime and therefore the Bail Application may be rejected.

7. Perusal of the record shows that the incident in question occurred on 12th October 2022. The Applicant was arrested on 14th October 2022. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 10th January 2023 and the charges were framed on 25th May 2023. However, there is no further progress in the trial. As per the Charge-sheet, there are a total of 27 witnesses proposed to be examined by the prosecution. Accordingly, the trial is likely to take a considerably long time.

8. *Prima facie* there is substance in the contention of learned Counsel for the Applicant that the main motive and the main role is attributed to the Accused Nos.1 and 3. *Prima facie* there is substance in the contention of learned APP and Ms. Mahto, learned Counsel that the Accused No.3 filed false F.I.R. to mislead the investigation. As far as the role of the present Applicant is concerned, he has assaulted the Injured with a wooden stick. There are no antecedents against the Applicant. Accordingly, the Applicant is entitled to be released on bail.

9. The Applicant does not have any criminal antecedents.
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 - Khalil Noormohammad Shah be released on bail in connection with C.R. No.374 of 2022 registered with the Chandwad Police Station, District-Nashik 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 Taluka-Chandwad, District-Nashik 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 Manmad City Police Station, District-Nashik twice in a month i.e. on the first and third Sunday of every month between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Manmad City Police Station, District-Nashik 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. In view of the said disposal, nothing survives in the Interim Application and the same 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.]