

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

CRIMINAL BAIL APPLICATION NO.2584 OF 2023

Akash C. Bhoir ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Aniket Nikam a/w Mr. Amit Icham, Mr. Satyajeet Mane, Mr. Dushyant Digambar, Advocates for the Applicant.
Mr. Prasanna Malshe, APP for Respondent-State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : 5th March 2024**

P. C.

1. Heard Mr. Nikam, learned Counsel appearing for the Applicant and Mr. Malshe, 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.	77 of 2023
2. Date of registration of F.I.R.	15th February 2023
3. Name of Police Station	Ghoti, Nashik Rural, District-Nashik
4. Section/s invoked	302, 201 and 440 r/w 34 of the <i>Indian Penal Code, 1860</i> .
5. Date of incident	30th August 2022
6. Date of arrest	1st March 2023
7. Date of filing Charge-sheet	24th April 2023

3. As per the prosecution case, deceased- Sandeep Gunjal was working as Security Officer in a construction company, which was constructing the road. The deceased was driving his car under the influence of alcohol and therefore, the incident in question has occurred. There are only two Accused. Accused No.1 is the present Applicant and Accused No.2 is the child-in-conflict with law.

4. As per the prosecution case, the child-in-conflict with law assaulted the deceased with a chopper and the Applicant torched the car, which was being driven by the deceased. The deceased was inside the car and the cause of death is due to burn injuries. The Applicant has shown the spot of the incident.

5. Mr. Nikam, learned Counsel appearing for the Applicant submitted that the incident in question had taken place on 30th August 2022 and the F.I.R. was lodged on 15th February 2023. The Applicant was arrested on 1st March 2023. He submitted that except the recovery of chopper at the instance of the Applicant and statement of witness- Dnyaneshwar Bhagde, there is no material against the Applicant. The case is of circumstantial evidence. He therefore submitted that the Applicant be released on bail.

6. On the other hand, Mr. Malshe, learned A.P.P. has strongly opposed the Bail Application. He submitted that although the child-in-conflict with law has assaulted the deceased with a chopper, the Applicant has torched the car and the deceased died due to burn injuries, as per the Post-mortem Report. He therefore submitted that the Applicant has played major role in the crime. However, after taking instructions, he states that there are no antecedents.

7. Perusal of the record shows that although the incident has occurred on 30th August 2022, F.I.R. was lodged on 15th February 2023 and the Applicant was apprehended on 1st March 2023. The investigation is completed and the Charge-sheet was filed on 24th April 2023. There is no further progress in the trial and even the Charge has not been framed. As per the Charge-sheet, there are 37 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

8. This case is of circumstantial evidence. Except recovery, the spot of incident is shown by the Applicant and the statement of one witness-Dnyaneshwar Bhagde, there is no material against the present Applicant. The said recovery is also after 5 months of the incident. The statement of witness is also recorded after 5 months of the incident. In the earlier statement, it is seen that there is nothing against the present Applicant.

9. The Applicant does not appear to be at risk of flight.
10. The Applicant does not have any criminal antecedents.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant- Akash C. Bhoir be released on bail in connection with C. R. No.77 of 2023 registered with the Ghoti Police Station, Nashik Rural, District-Nashik on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent 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 Ghoti Police Station, District- Nashik on the first Sunday of every month 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 prosecution evidence and shall not contact or influence the Complainant or any prosecution 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, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]