

Nikita

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

BAIL APPLICATION NO.2711 OF 2023

Gokul Madhukar Yelmame ... Applicant

V/s.

State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.4069 OF 2023

IN

BAIL APPLICATION NO.2711 OF 2023

Aarti Rajesh Shinde ... Applicant

V/s.

State of Maharashtra ... Respondent

Mr. Aniket V. Nikam i/b Mr. Amit Icham for the
Applicant in Bail Application.

Mr. Rohan D. Kaiche, for the Applicant in IA
(Intervener).

Mr. Pankaj P. Deokar, APP for the State-Respondent.

Sr. PI. Kad, Panchavati Police Station.

CORAM : AMIT BORKAR, J.

DATED : MARCH 1, 2024

P.C.:

1. This is an application under Section 439 of the Code of Criminal Procedure, 1973 in connection with C.R. No.371 of 2021 dated 24th November 2021 registered with Panchvati Police Station District Nashik for offences punishable under Section 302, 341, 212, 120(b) read with 34 of the Indian Penal Code, 1860 and

Section 142 of the Maharashtra Police Act, 1951.

2. According to the prosecution, the Applicant and his brother were carrying on a business of selling vegetables. The applicant's brother had financial dispute with the deceased and there used to quarrel between them.

3. According to prosecution on 23rd November 2021 around 1.P.M., the applicant along with three other accused were discussing about killing the deceased. On 23rd November 2021 there was quarrel between other accused and the deceased. The other two accused assaulted the deceased on head by using stone lying at the place of incident. According to the prosecution, accused No.2 assaulted the deceased on his head, face and chest by stone.

4. The applicant was arrested on 4th December 2021. After completion of the investigation the Investigating Agency has filed charge-sheet against the applicant and other accused.

5. On perusal of the charge-sheet, it appears that according to the prosecution one Raj Nathe had seen the applicant discussing about killing the deceased on the night of incident. On perusal of the charge-sheet except the statement by two witnesses attributing role of conspiracy, prima facie, there is no material to indicate that the applicant was present at the spot of the incident. It also appears from the prosecution case that two accused picked up stone lying at the spot of the incident.

6. There are four antecedents against applicant out of which he has been acquitted in two cases. However, considering the material

placed on record, by way of charge-sheet and considering the fact that the applicant is in jail from 4th December 2021, in my opinion, the applicant has made out a case for grant of bail.

7. It also appears that on the date of incident, the order of externment was inforce. The learned advocate for the applicant on instructions states that the applicant shall not enter the limits of Nashik District during the pendency of the Trial. Hence following order:

a) The applicant Gokul Madhukar Yelmame be released on bail in connection with Cr. No.371 of 2021 dated 24th November 2021 registered with Mumbai Naka Police Station, Nashik for offences punishable under Sections 302, 341, 212, 120(b) read with 34 the IPC, on furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

b) The applicant shall not enter the District of Nashik except for marking his presence to the concerned Police Station on second Saturday of each month between 11.00 A.M. to 2.00 P.M. till the conclusion of the Trial.

c) The applicant shall enter the District only for the purpose of remaining present before the Trial Court on each date unless exempted by the Sessions Court.

d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so that dissuade them from disclosing such facts.

- e)** The applicant shall not play mis-chief with the evidence collected by the Police.
 - f)** The applicant shall at the time of execution of the bond furnish his address and cell-phone number to the Investigating Officer and shall not change his residence till the disposal of the case.
 - g)** The applicant is also permitted to enter the district for the purpose of attending trials in relation to offences already registered against him.
- 8.** The bail application is disposed in above terms. No costs.
 - 9.** In view of disposal of bail application, the interim application stands disposed of as infructuous.

(AMIT BORKAR, J.)