

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

CRIMINAL BAIL APPLICATION NO.2996 OF 2023

Mohan alias Pappu Ashok Ugale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Vagal a/w Mr. Divesh Mehani, Savvy Kolhekar and Kunal N. Pednekar, Advocate/s, for the Applicant.

Ms. S.S. Kaushik, APP, for Respondent- State.

Mr. A.N. Kothale, PSI, Sinnar Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 22nd March 2024

P. C.

1. Heard Mr. Vagal, learned Counsel for the Applicant and Ms. Kaushik, 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.	432 of 2022
2.	Date of registration of F.I.R.	8 th October 2022
3.	Name of Police Station	Sinnar, District-Nashik
4.	Section/s invoked	302, 307, 323, 324, 504, 143, 144, 147, 148, 149 of <i>I.P.C., 1860</i> ;
5.	Date of incident	8 th October 2022
6.	Date of arrest	14 th October 2022
7.	Date of filing Charge-sheet	10 th January 2023

3. As per the prosecution case a meeting of Vaidu community was arranged on a ground at about 1.30 p.m. on 8th October 2022. The Applicant, deceased, and all Accused belong to the said Vaidu community. As per the prosecution case, some scuffle took place in the said meeting and the Applicant, who is Accused No.1 assaulted the deceased with a knife.

4. Mr. Vagal, learned Counsel for the Applicant submitted that there are total 12 Accused. Except the Applicant, all others have been released on bail. He submitted that due to some confusion between surnames of the present Applicant i.e. Accused No.1 and Accused No. 10 i.e. Shubham *alias* Shambhu Bhausahab *alias* Bandu Ugale, the role of assaulting the deceased with a knife has been attributed to the Applicant in the F.I.R.. However, he submitted that the recovery of the knife is at the instance of Accused No.10- Shubham, who assaulted the deceased with a sharp weapon and the said Accused No.10 has been identified by the Informant in the test identification parade. He submitted that the Applicant has not been subjected to test identification parade and in any case even the recovery of the knife is not at his instance.

5. Mr. Vagal, learned Counsel submitted that the Post Mortem Examination Report shows that the death is due to bilateral pneumonitis with septicemia in case of sharp injury to abdomen. He

submitted that the incident in question took place on 8th October 2022 and the deceased died on 13th October 2022. He submitted that the cause of death recorded in the post mortem report clearly shows that the Applicant is not responsible for the offence under Section 302 of the *Indian Penal Code., 1860 ("IPC")*.

6. On the other hand, Ms. Kaushik, learned APP vehemently opposed the Bail Application. She submitted that the deceased was mercilessly assaulted by the Applicant. On instructions, she submitted that there are no antecedents.

7. Perusal of the record shows that the incident in question took place on 8th October 2022, F.I.R. was filed on 8th October 2022 and the Charge-sheet was filed on 10th January 2023. As per the Charge-sheet, there are 41 witnesses proposed to be examined by the prosecution. There is no further progress in the trial and even the Charge is also not framed yet.

8. *Prima facie*, there is substance in the contention of learned Counsel for the Applicant that the role attributed to the present Applicant of assaulting the deceased with a knife has been attributed as the Surname of the Applicant and that of Accused No.10 is the same.

9. *Prima facie*, although the informant who is an eye-witness has stated the name of the Applicant in the F.I.R., in test identification parade, he has identified Accused No.10 as Accused who had assaulted

the deceased with a sharp weapon. Therefore, *prima facie*, there is substance in the contention of learned Counsel for the Applicant that the Applicant is not responsible for the offence under Section 302 of the *I.P.C.*.

10. There are total 12 Accused, and except the Applicant, others have been released on bail. There are no criminal antecedents. The Applicant is a young person aged 22 years.

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

12. The Applicant does not have any criminal antecedents.

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

14. In view thereof, the following order:-

ORDER

(a) The Applicant - Mohan *alias* Pappu Ashok Ugale be released on bail in connection with C.R. No.432 of 2022 registered with the Sinnar Police Station, Taluka - Sinnar, District - Nashik on his furnishing P.R. Bond of Rs.10,000/- with one or two local 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 Sinnar Police Station, Taluka - Sinnar, 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.

15. The Bail Application is disposed of accordingly.

16. 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.]