

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3071 OF 2023

Tulshidas Haribhau Patole

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyam Harshad Nimbalkar a/w. Mr. Abhishek Ulhas Arote
Advocates for the Applicant.

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

Mr. S. B. Berad, A.P.I. attached to Sahakar Nagar Police Station,
Pune City present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 5th FEBRUARY 2024

PC:-

1. Heard Mr. Nimbalkar, learned Counsel appearing for the Applicant and Ms. Kaushik, 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.	192 of 2019
2.	Date of Registration of F.I.R.	14/02/2019

3.	Name of Police Station	Sahakar Nagar Police Station, Pune City
4.	Section/s invoked	302, 504, 506 r/w. 34 of I.P.C., 1860
5.	Date of Incident	13/02/2019
6.	Date of Arrest	14/02/19
7.	Date of filing of Charge-sheet	30/04/2019

3. The present Applicant is Accused No.3. Accused No.1 is one Ganesh Shankar Vairat and Accused No.2 is Rakesh Patole i.e. son of the present Applicant.

4. It is the contention of learned Counsel appearing for the Applicant that the said Accused No.1-Ganesh Shankar Vairat has been granted bail by order dated 20th April 2023 passed by a learned Single Judge (Coram:N. R. Borkar, J.) in Criminal Bail Application No.2727 of 2022 and the parity applies to the present Applicant. Apart from that, it is the contention of the Applicant that the Applicant is incarcerated since 14th February 2019 i.e. for almost 5 years. The trial has not yet commenced.

5. On the other hand, it is the contention of Ms. Kaushik, learned APP that the charge has been framed on 14th September 2023 and trial has commenced and therefore, bail be not granted.

6. Perusal of the record shows that the date of incident is 13th February 2019, the F.I.R. has been lodged on 14th February 2019 and the Applicant has been arrested on 14th February 2019. The Applicant is incarcerated since about 5 years.

7. As far as the status of the trial is concerned, there are about 15 witnesses to be examined by the prosecution. Although the charge was framed on 14th September 2023 i.e. after about 4½ years of filing of the Charge-sheet, on 14th September 2023, the matter was adjourned to 17th February 2024 i.e. the first date has been allotted after about 5 months from the date of framing of the charge for the examination of the prosecution witness No.1. Thus, it is clear that the trial is unlikely to conclude any time soon and is likely to take a considerably long time.

8. As far as parity is concerned, paragraph Nos.4, 5 and 6 of the order dated 20th April 2023 passed by a learned Single Judge in

the Bail Application filed by the Accused No.1-Ganesh Shankar Vairat are as follows:-

*“4. The deceased had an evil eye on the wife of the co-accused Rakesh Patole. According to the prosecution, thus on the date of incident which took place on 13 February 2019, the **said co-accused, his father and the present applicant assaulted the deceased by iron rod and sticks and committed his murder.***

*5. The motive for the alleged crime is not attributed to the present applicant. **The applicant is in jail for about 4 years. The trial is still at stage of framing of charge.***

6. The learned APP submits that there are eye-witnesses to the incident. It is submitted that considering the nature of offence, the applicant may not be released on bail. However, considering the overall facts and circumstances of the case and as the trial has not yet commenced, I am inclined to release the applicant on bail. Hence, the following order is passed:.....”.

(Emphasis added)

9. As per the prosecution case, the Applicant has assaulted the deceased only with a wooden log whereas, said Accused No.1-Ganesh Shankar Vairat assaulted the deceased with an iron rod.

10. Learned Counsel appearing for the Applicant states that as several witnesses are residing in the same locality as that of the

Applicant, the Applicant will reside at Lane No.14, Galli No.8, Latakunj, Chaudhavi Nagar, Munjaba Vasti, Near Shiv Shakti Mitra Mandal, Dhanori, Pune-411015.

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

12. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a)** The Applicant-Tulshidas Haribhau Patole be released on bail in connection with C. R. No.192 of 2019 registered with the Sahakar Nagar Police Station, District-Pune 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) On being released on bail, the Applicant shall not enter the jurisdiction of Sahakar Nagar Police Station, Pune, except for reporting to the Investigating Officer, if called and for attending the trial.
- (d) The Applicant shall report to the Dhanori Police Station, District-Pune on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial. The Police Inspector of Dhanori 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 evidence and shall not contact or influence the Complainant or any witnesses 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 and uninfluenced by the observations made in this order.

(MADHAV J. JAMDAR, J.)