



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3186 OF 2023

Shantabai @ Shanta Shivaji Pawar & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. Niranjan Mundargi a/w. Ms. Keral Mehta and Mr. Pundalik Bhalbar, Advocates for the Applicants.

Mr. P. H. Gaikwad, APP for the Respondent-State.

Mr. Anant Vadgaonkar, Advocate for the Intervenor/Original Complainant.

Mr. Sachin S. Jagtap, A.S.I. attached to Sangola Police Station, Solapur Rural present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 7th FEBRUARY 2024

PC:-

1. Heard Mr. Niranjan Mundargi, learned Counsel appearing for the Applicants, Mr. Gaikwad, learned APP appearing for the Respondent-State and Mr. Vadgaonkar, learned Counsel appearing for the Intervenor-Original Complainant.

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.	448 of 2023
2.	Date of Registration of F.I.R.	23/05/2023
3.	Name of Police Station	Sangola Police Station, District-Solapur
4.	Section/s invoked	302, 143, 147, 148 and 149 of the I.P.C., 1860 4 & 25 of the Arms Act, 1959 135 of the Maharashtra Police Act, 1951
5.	Date of incident	22/05/2023
6.	Date of arrest	24/05/2023
7.	Date of filing Charge-sheet	19/08/2023

3. As per the prosecution case, on 22nd May 2023 at 7.45 p.m., the deceased-Amol Lavate along with his cousin one Mahesh Lavate, left on their motorcycle for Sangola and on their way to Sangola while they were at the Waki Gheradi Chowk, one white Innova Car travelling at a high speed crashed into their motorcycle. Due to the said collision, the motorcycle slipped down the road. The said car was being driven by Accused No.2-Sharad Shivaji Pawar. His father-Accused No.1-Shivaji Pawar was on the rear seat and brother of Shivaji Pawar i.e. Accused No.3-Bharat Pawar was on the front seat. In view of the said accident, a verbal spat and a heated altercation occurred between the deceased and three Accused persons i.e. Accused Nos.1, 2 and 3.

4. As per the prosecution case, the house of said Shivaji Pawar was near the spot of the said incident and that Shivaji Pawar immediately went to his residence and told the Accused Nos.2 and 3 to restrain and detain the deceased in the meanwhile. He returned running to the spot carrying a knife from his house and the present Applicants i.e. Accused No.4-Shantabai *alias* Shanta Shivaji Pawar wife of Accused No.1 and Accused No.5-Vijaya *alias* Vijubai Pandurang Jadhav i.e. sister of Accused No.1 also rushed to the said spot. They both were carrying chilli powder in their hands. As per the prosecution case, they threw chilli powder on the face of the deceased. The deceased was assaulted by Accused No.1-Shivaji Pawar.

5. It is the contention of Mr. Mundargi, learned Counsel appearing for the Applicants that Applicant No.2 is a senior citizen aged 64 years and the Applicant No.1 is aged 58 years. He submitted that the said incident has occurred in a spur of the moment and there is nothing on record to show that the said incident was premeditated. He submitted that at the most, the role of the present Applicants is that they have thrown chilli powder on the face of the deceased. He pointed out the Post-Mortem

Examination Report and particularly the Column No.9 therein and the observations recorded under 'Features'. He pointed out that as per the Post-Mortem Examination Report, eyes are observed to be semi-open and natural. He therefore, submitted that this is a fit case for granting bail.

6. On the other hand, Mr. Gaikwad, learned APP appearing for the Respondent-State and Mr. Vadgaonkar, learned Counsel appearing for the Intervenor-Original Complainant strongly opposed the Application. They submitted that there are about six eye-witnesses to the incident. They submitted that chilli powder has been recovered from the spot of offence in question. They further stated that there is a recovery of clothes and that there is presence of chilli powder on the said clothes. They submitted that the deceased was assaulted and he succumbed to the resultant injuries. They submitted that the Applicants have played a major role in the offence in question and therefore bail be not granted.

7. Perusal of the prosecution case as contained in the Charge-sheet and Statement recorded during the investigation shows that this is a case of road rage. The incident has *prima facie* occurred in

a spur of the moment. The date of incident is 22nd May 2023. The Applicants were arrested on 24th May 2023 and the Charge-sheet has been filed on 19th August 2023. Thus, the investigation is completed. Mr. Mundargi, learned Counsel appearing for the Applicants submitted that the trial has not yet commenced and even the charge is also not yet framed. As per the prosecution case and list of witnesses annexed to the Charge-sheet, there are 26 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

8. There are no criminal antecedents against the present Applicants. The Applicants are women. The Applicant No.2 is a senior citizen aged 64 years and the Applicant No.1 is aged 58 years.

9. Mr. Mundargi, learned Counsel appearing for the Applicants states that as several witnesses are residing in the same locality as that of the Applicants, the Applicants will therefore not reside within Solapur district and that the Applicants will reside at C/o. Pratiksha Kate, Aditya Apartment, S.N. 7/2, Plot No.3, 1st Floor,

Flat No.6, Kadam Plaza, Pune-Satara Road, Opposite Bharti Hospital, Katraj, Pune – 411 046.

10. The Applicants do not appear to be at risk of flight.

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

ORDER

(a) The Applicants-Shantabai *alias* Shanta Shivaji Pawar and Vijaya *alias* Vijubai Pandurang Jadhav be released on bail in connection with C. R. No.448 of 2023 registered with the Sangola Police Station, Taluka-Sangola, District-Solapur on their furnishing P. R. Bond of Rs.25,000/- each with one or two solvent sureties each in the like amount.

(b) The Applicants shall not enter the Solapur district 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 Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicants shall report to the Bharti Vidyapeeth Police Station, Katraj, District-Pune once every month, on first Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Bharti Vidyapeeth Police Station, Katraj, District-Pune to communicate details thereof to the Investigating Officer.
- (e) The Applicants 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 Applicants shall not tamper with the evidence and shall not contact or influence the Complainant or any

witnesses in any manner.

(g) The Applicants shall attend the trial regularly. The Applicants shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicants shall surrender their 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 own merits and uninfluenced by the observations made in this order.

(MADHAV J. JAMDAR, J.)