

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

BAIL APPLICATION NO. 3198 OF 2023

1. Dileepkumar Singh
 2. Dhirendrakumar Rahish Singh
 3. Vivek Omprakash Upadhya
- .Applicants

Versus

Union of India & Anr. .Respondents

Mr. Ayush Pasbola i/b. Ms. Sneha Mishra, for the Applicants.
Mr. Harsh Dedhia a/w. Ms. Diksha Ramnani h/f. Mr. Hiten S. Venegaonkar, for Respondent No.1 – UOI.
Mr. S. S. Chaudhari, APP, for Respondent No. 2 – State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 08.05.2024

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1. Heard Mr. Pasbola, learned Counsel for the Applicants, Mr. Venegaonkar, learned Public Prosecutor a/w Mr. Dedhia and Mr. Chaudhari, learned APP for Respondent No. 2 – 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.	762 of 2022
2.	Date of registration of F.I.R.	19.12.2022
3.	Name of Police Station	Silvassa, Dadra & Nagar Haveli
4.	Sections invoked	302, 323 r/w. 34 of I.P.C., 1860
5.	Date of incident	16.12.2022
6.	Date of arrest	19.12.2022
7.	Date of filing of Charge-sheet	17.02.2023

3. The prosecution case is set out in paragraph no.2 of the Bail Application which reads as under:

“2. *The brief facts of the prosecution case as revealed from the F.I.R is as follows :-*

a) *`That the complainant Valindar Chandrika Yadav, aged 31 years is residing at Dr Jitendra Solanki's house, Navratri Chowk, Ambaji Temple, Village Jhagadia, District Bharuch, Gujarat., and his permanent address is at Gram Lawarchi, Post Thana Barahj, District Deoria, Uttar Pradesh.*

b) *That he is working with Rajshree Poly Phys Ltd in the post of Machine Operator for past two years. On 18.12.2022, one Raju Kanojia residing at Silvassa called him at about 6.00 p.m and told him to Silvassa as his brother Jogender was dead. Accordingly, he along with his cousin Umesh Yadav visited Silvassa and met Vedprakash and Umesh.*

c) *That Umesh informed him that he and his wife Poonam were marketing ayurvedic products of Asclepius Wellnes Pvt Ltd from Shop No.10 on first floor at Amli Leela Heights in Silvassa. Another 20 – 25 persons were also employed with the said firm and the business was being done on-line. Due to personal reasons, Umesh and Poonam left and joined V Star Pulse Company on 10.12.2022 which had its Head Office at Delhi, but no office at Silvassa. That no one was interested in joining the company.*

d) *That Umesh further informed him that about three days ago i.e. on 16.12,2022, while he and his wife Poonam were returning back to Silvassa from Naroli in their car, Dharendra Singh, Dilip Singh, Brijmohan Singh, Jawar Prasad who were working with them in the previous company, came near their car, banged the glass window of the said car which was closed. However, they drove away the car without stating anything to them.*

e) *That on 18.12.2022, a meeting of the Asclepius Wellnes Pvt Ltd was arranged on the first floor of Leela Height Complex. Umesh along with the complainant's brother Jogender and Vedprakash went to the meeting at 2.00 p.m to talk about the incident which occurred on 16.12.2022. That when Jogender Singh inquired with the Applicants as to why they were harassing Umesh and Poonam, all of them got angry and beat Jogender with their hands and threw him on the*

lobby. All of them kicked Jogender in the stomach and slapped Umesh in his face on his right ear. When Umesh ran, the Applicants followed him and assaulted him on the face and chest.

Subsequently, the police arrived and he was taken to VBCH. Yogesh also accompanied them to the hospital. However, the Doctors declared him dead before admission. The cause of death was “haemorrhagic shock due to blunt trauma to chest and abdomen”. ”

4. It is the contention of Mr. Pasbola, learned Counsel for the Applicants that the Applicants are highly qualified individuals. They are in the business of marketing Ayurvedic products. He submitted that the incident in question has taken place due to some business rivalaries. However, he states that the incident in question has taken place on the spur of the moment. There was no intention to commit the offence. He submitted that the Applicants have no antecedents. He pointed out the Post-Mortem Examination Report (Page Nos.75 to 75-I) and submitted that in fact, the deceased at the relevant time was under the influence of alcohol. He submitted that the incident in question has taken place as the deceased and the injured had come to the office of the Applicants for questioning about the earlier incident and the incident in question has taken place during the scuffle on the spur of the moment.

5. On the other hand, Mr. Venegaonkar, learned Public Prosecutor strongly objected granting of bail. He pointed out the injuries on page Nos.75-F & G of the Post-Mortem Examination Report and submitted that the Bail Application be rejected.

6. A perusal of the record shows that the incident in question has taken place on 16.12.2022. The F.I.R. was registered on 19.12.2022 and the Applicants were apprehended on 19.12.2022. The Charge-sheet was filed on 17.02.2023. As per the Charge-sheet, there are about 26 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even the Charge is also not framed yet. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention of Mr. Pasbola, learned Counsel for the Applicants that the incident in question has taken place on the spur of the moment.

8. The Applicants do not have any criminal antecedents.

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

10. Accordingly, the Applicants can be enlarged on bail by imposing conditions.

11. In view thereof, the following order:

ORDER

(a) The Applicants - Dileep kumar Singh, Dharendra kumar Rahish Singh and Vivek Omprakash Upadhya be released on bail in connection with C. R. No.762 of 2022 registered with the Silvassa Police Station, Dadra & Nagar Haveli on their furnishing P. R. Bond of Rs.50,000/- each with one or two local solvent sureties in the like amount in each case.

(b) On being released on bail, the Applicants shall not leave the area of Dadra and Nagar Haveli and shall furnish their cell phone numbers and residential addresses to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicants shall report to the Silvassa Police Station, Dadra & Nagar Haveli on the Sunday of every week between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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.

(e) The Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

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

(g) The Applicants shall surrender their passports, if any, to the Investigating Officer.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the Trial Court shall decide the case on its

merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]