

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3210 OF 2023

Dhananjay Sadanand Dhamale

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

INTERIM APPLICATION NO.246 OF 2024
IN
CRIMINAL BAIL APPLICATION NO.3210 OF 2023

Mr. Kailashsingh Ranjit Rawat

...Intervenor

In the matter between:

Dhananjay Sadanand Dhamale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Nikam a/w Mr. Amit Icham, Mr. Satyajeet Mane, Mr. Dushyant Digambar, Advocates, for the Applicant.
Ms. S.S. Kaushik, APP, for Respondent- State.
Mr. Shambhu Jha a/w Mr. Ashwin Yadav, Mr. Suraj Pandey for Intervenor.
Y.D. Jadhav, (H.C. B.No.1545) Velhe Police Station- present.

CORAM: MADHAV J. JAMDAR, J.
DATED: 14th March 2024

P. C.

1. Heard Mr. Nikam, learned Counsel for the Applicant, Ms. Kaushik, learned APP for the Respondent-State and Mr. Jha, learned

Counsel for the Intervenor i.e. father of the deceased.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:-

1.	C. R. No.	52 of 2022
2.	Date of registration of F.I.R.	12th October 2022
3.	Name of Police Station	Velhe, Pune Rural, Taluka-Velhe, District-Pune
4.	Section/s invoked	302, 201, 34 of <i>I.P.C., 1860</i> ;
5.	Date of incident	Prior to 12th October 2022
6.	Date of arrest	17th October 2022
7.	Date of filing of Charge-sheet	January 2023

3. The prosecution case is as follows:

(i) There are total three Accused. Accused No.1 is Sanjay Baburao Kadu Deshmukh, Accused No.2 is Dhananjay Sadanand Dhamale (the present Applicant) and Accused No.3 is Ganesh Dattatray Nivangune.

(ii) One China *alias* Yogendra Amarsing Rawat and Accused No.1 - Sanjay Baburao Kadu Dhamale were working as estate agents. Mr. Yogendra Rawat was the resident of Bhosari-Pune and had good contacts and therefore his business of land dealings have flourished whereas Accused No.1-Sanjay Dhamale was not able to get adequate business opportunities and he was facing financial distress and he is also a habitual alcoholic.

(iii) Said Yogendra Rawat is the uncle of the deceased - Sonya *alias* Rahul Prakash Rawat.

(iv) The incident in question took place in the farm house of Accused No.3-Ganesh Nivangune.

(v) There are 5 eye-witnesses to the incident. They are Kailas Baburao Thakar (page-76), Kundlik Baban Chavan (page-78), Prathmesh Rajendra Nivangune (page-79), Dattatray Parvati Nivangune (page-81), and Gajrabai Dattatray Nivangune (page-82).

(vi) The incident in question took place from 3rd October 2022 till 12th October 2022 when the mortal remains of the deceased were recovered.

(vii) Eye-Witness-Kailas Thakar has stated that on 3rd October 2022, all the Accused alongwith deceased came on two motorcycles at about 8.00 p.m. Thereafter they had dinner and all of them consumed liquor. At about 10.00 p.m., Accused No.1-Sanjay and the deceased went outside and at that time, the Accused No.1 - Sanjay was abusing the deceased and also assaulting him with fist-blows. All of them stayed at the said farm house. On 4th October 2022 again in the evening, the Accused No.1- Sanjay and Accused No.2 i.e. the present Applicant assaulted the deceased with fist and hand-blows. At that time, Accused No.3 - Ganesh Nivangune prevented them from further assualting the deceased and told them not to quarrel. Thereafter in the night, again all

of them started consuming liquor and started quarreling with each other. At that time, Accused No.1 was assaulting the deceased with hand and fist-blows.

(viii) On 5th October 2022 in the morning, the father of the Accused No.3 told Accused Nos.1 & 2 to immediately leave the said farm house and also told them to take the deceased with them. Thereafter they left the said farm house.

(ix) Thereafter on 12th October 2022, the mortal remains of the deceased were found in an agricultural field.

4. It is the contention of Mr. Nikam, learned Counsel for the Applicant that there is no material as far as the present Applicant is concerned. Although there are 5 eye-witnesses, test identification parade was conducted and 4 eye-witnesses were part of the same and they have not identified the Applicant. He submitted that there is recovery of clothes of the Applicant and of the Accused No.1 at the behest of the Applicant. However, there are no blood stains on the same. The said recovery was on 20th October 2022. He submitted that the investigation is complete and Charge-sheet is filed. The Applicant is in custody since 17th October 2022.

5. On the other hand, Ms. Kaushik, learned A.P.P. and Mr. Jha learned Counsel for the Intervenor has vehemently opposed the Bail Application and submitted that there are total 5 eye-witnesses. The eye-

witnesses have clearly stated the role of the present Applicant. There is recovery of clothes at the instance of the present Applicant. Ms. Kaushik, learned APP submitted that there are two antecedents and therefore bail may not be granted.

6. Mr. Jha, learned Counsel for the Intervenor submitted that the deceased was kept in the said farm house from 3rd October 2022 till 5th October 2022 and the purpose must have been for extortion.

7. Perusal of the record shows that the incident in question took place prior to 12th October 2022, F.I.R. was lodged on 12th October 2022. On 11th October 2022, a missing complaint was lodged whereas as per the prosecution case the deceased was missing since 3rd October 2022. The investigation is complete and Charge-sheet has been filed in January 2023. Till date, there is no progress in the trial and even the Charge is also not framed yet. As per the Charge-sheet, the prosecution proposes to examine about 24 witnesses. Accordingly, the trial is likely to take a considerably long time.

8. Although there are 5 eye-witnesses, 4 eye-witnesses were part of the test identification parade and none of these 4 eye-witnesses have identified the Applicant. Statements of 4 eye-witnesses under Section 164 of CrPC have been recorded. They have not stated the role of the present Applicant in the said statements. Even if the entire prosecution case is accepted, then also there is no motive attributed to the present

Applicant, to commit the offence in question. The motive is attributed to the Accused No.1. The statement of eye-witness Kailas Baburao Thakar (page 76) shows that on two occasions between 3rd October 2022 till 5th October 2022, the Applicant had assaulted the deceased with hand and fist blows. The said eye-witness also stated that all the Accused alongwith the deceased were consuming liquor on 3rd October 2022 and also on 4th October 2022 in the night.

9. Although Mr. Jha, learned Counsel for the Intervenor submitted that the motive may be of extortion, it is to be noted that as per the prosecution case, the same is not the motive. As per the prosecution case, the motive is that the business of the uncle of the deceased was flourishing whereas the Accused No.1 was not able to get the business. The deceased was with the Accused from 3rd October 2022. Nothing is pointed out by the learned A.P.P. or by Mr. Jha, learned Counsel for the Intervenor that any call for ransom had been made to the relatives of the deceased. In fact, it is surprising that although the deceased was with the Accused from 3rd October 2022, the missing complaint was filed on 11th October 2022 for the first time. In any case, no motive is attributed to the Applicant and the motive is attributed to the Accused No.1.

10. There are two antecedents, one bearing C.R. No.17 of 2010 registered with Velhe Police Station, Pune under Sections 326, 325,

427, 504 34 of the *Indian Penal Code, 1860* ("IPC") and another bearing C.R. bearing No.104 of 2022 registered with Swargate Police Station, Pune under Sections 326, 504 and 34 of the IPC. However the first antecedent is of the year 2010. Mr. Nikam stated that in both these cases, the Applicant is enlarged on bail.

11. Mr. Nikam, learned Counsel appearing for the Applicant on instructions states that as several witnesses are from Taluka-Velhe, District- Pune, the Applicant, will therefore not reside within Taluka-Velhe, District- Pune and that the Applicant will reside at Vishrambaug, District - Pune.

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

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

14. In view thereof, the following order:-

ORDER

(a) The Applicant - Dhananjay Sadanand Dhamale be released on bail in connection with C.R. No.52 of 2022 registered with the Velhe Police Station, Taluka - Velhe, District - Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter Taluka-Velhe, District-Pune 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 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.

(d) The Applicant shall report to the Vishrambaug Police Station, District - Pune twice in a week for six months on every Sunday and Wednesday between 11.00 a.m. and 1.00 p.m and thereafter once every week on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Vishrambaug 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 prosecution evidence and shall not contact or influence the Complainant or any prosecution 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.

15. The Bail Application is disposed of accordingly. In view thereof, nothing survives in the Interim Application and the same is also disposed of.

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.

BHALCHANDRA
GOPAL
DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2024.03.14
20:47:12 +0530

[MADHAV J. JAMDAR, J.]