

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

BAIL APPLICATION NO.3208 OF 2023

Shubham Nanda Kadam

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Kuldeep U. Nikam, for the Applicant.

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

CORAM: MADHAV J. JAMDAR, J.

DATED: APRIL 24, 2024

P.C.:

1. Heard Mr. Nikam, learned Counsel for the Applicant and Mr. 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.	57 of 2023
2	Date of registration of F.I.R.	19/05/2023
3	Name of Police Station	Uttam Nagar, District-Pune
4	Section/s invoked	307, 323, 504, 506 & 34 of the <i>I.P.C., 1860</i> ; 7 of the <i>Criminal Law (Amendment) Act, 2013</i> .
5	Date of incident	18/05/2023
6	Date of arrest	19/05/2023
7	Date of filing Charge-sheet	11/08/2023

3. As per the prosecution case, on the date of the incident i.e. on

18th May 2023, one Samadhan Mali's birthday was being celebrated. This celebration was attended by the Informant and his friend Prathamesh Dixit. At that time, Accused No.2-Prashant Raykar was enquiring with the deceased about his address and name and suddenly a quarrel broke out between the Accused and the deceased. The Accused were telling the Informant and the deceased that they were outsiders and that they could not enter the area where the Accused were as the said area is under their control. In the said scuffle, Accused No.1-Bala *alias* Chaitanya Patil assaulted the deceased with a wooden log, Accused No.3-Shubham Kadam (present Applicant) assaulted the deceased with kicks and fist blows and Accused No.2-Prashant Raykar assaulted the deceased with a paver block.

4. It is the contention of Mr. Nikam, learned Counsel for the Applicant that the Applicant is a young man aged 22 years and the Applicant does not have any criminal antecedents. He submitted that the maximum role attributed to the Applicant is that the Applicant had assaulted the deceased with kicks and fist blows. He submitted that the incident in question took place on the spur of the moment, and in the heat of the moment without there being any intention to commit murder of the deceased. He submitted that the assault took place on 18th May 2023 and the deceased succumbed to the injuries on 26th May 2023. He therefore submitted that the Applicant be enlarged on

bail.

5. On the other hand, Ms. Kaushik, learned APP strongly opposed the Bail Application. She submitted that the deceased had been mercilessly assaulted by all the Accused persons and the present Applicant had actively participated in the said assault. She submitted that although there are no antecedents against the Applicant, Accused No.1 and Accused No.2 have antecedents. As far as Accused No.1-Bala *alias* Chaitanya Patil is concerned, there are four antecedents and as far as the Accused No.2-Prashant Raikar is concerned, there are two antecedents. She, therefore, submitted that the Bail Application be rejected.

6. Perusal of the record shows that investigation has been completed and the Charge-sheet has been filed on 11th August 2023. As far as the role of the present Applicant is concerned, he had assaulted the deceased with kicks and fist blows. As far as the Post-Mortem Examination Report is concerned, cause of death is due to “complications following head injury”.

7. The Applicant is a young man aged 22 years.

8. The Applicant does not have any criminal antecedents.

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

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

11. In view thereof, the following order:-

ORDER

- (a) The Applicant-Shubham Nanda Kadam be released on bail in connection with C.R. No.57 of 2023 registered with the Uttam Nagar Police Station, District-Pune on his furnishing PR. Bond of Rs.50,000/- with one or two local 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) The Applicant shall report to the Uttam Nagar Police Station, District-Pune once every week i.e. on every Sunday 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 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.

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.]