

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

BAIL APPLICATION NO. 3404 OF 2023

Daulat Sarjerao Pawar

.Applicant

Versus

The State of Maharashtra

.Respondent

Ms. Shivani Kondekar a/w. Mr. Yash Fadtare, Advocates, for the Applicant

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

CORAM: MADHAV J. JAMDAR, J.

DATE: 16.02.2024

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1. Heard Ms. Kondekar, learned Counsel appearing for the Applicant and Mr. Gaikwad, 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.	361 of 2022
2.	Date of Registration of F.I.R.	27.09.2022
3.	Name of Police Station	Sangli Police Station (Rural)
4.	Sections invoked	302 r/w. 34 of the Indian Penal Code, 1860
5.	Date of Incident	26.09.2022
6.	Date of Arrest	27.09.2022
7.	Date of filing of Charge-sheet	22.12.2022

3. The Applicant – Mr. Daulat Sarjerao Pawar is the Accused No. 2. As per the prosecution case, Accused No. 2 – Daulat is the uncle of Accused No. 1 – Ajay. Another uncle is Pratap Pawar. It appears that as there was a relationship outside of marriage between the wife of said Pratap Pawar and the deceased, Accused No. 1 and Accused No. 2 were of the opinion that therefore, their family's name and reputation is tarnished in the entire village. Therefore, the Applicant – Accused No. 2 and Accused No. 1 has committed murder of the deceased on 26.09.2022.

4. Ms. Kondekar, learned Counsel appearing for the Applicant submitted that the case is of circumstantial evidence. The motive alleged is very weak. She submitted that there are no antecedents. Investigation is complete and Charge-sheet is filed on 22.12.2022. Till date, there is no progress in the trial. Even charge is not framed. She, therefore, submitted that the Applicant be released on bail.

5. On the other hand, Mr. Gaikwad, learned APP appearing for the Respondent – State vehemently opposed the Bail Application. He pointed out various averments made in the affidavit of Ms. Smita Sanjay Patil, PSI, Sangli Police Station (Rural), Sangli. He pointed out various statements recorded during the investigation. He submitted that although the case is of circumstantial evidence, the circumstances are very strong. He

submitted that Accused No. 2 and Accused No. 1 were last seen together. After committing the offence in question, they have called two witnesses on mobile and informed them that they have killed the deceased. Thereafter, alongwith blood stained clothes, they went to Shankar Sanjay Jadhav and informed him about the incident. There is a recovery of blood stained clothes at the instance of the present Applicant. There is a recovery of sickle, at the instance of Accused No. 1. He submitted that there is a strong motive for committing crime. Therefore, bail may not be granted.

6. A perusal of the record shows that the incident has taken place on 26.09.2022. Charge-sheet was filed on 22.12.2022. As per the Charge-sheet, there are 39 witnesses proposed to be examined by the prosecution. There is no progress in the trial. Even charge is also not framed yet. The trial is likely to take a considerably long time.

7. This is a case of circumstantial evidence. There is substance in the contention raised by Mr. Gaikwad, the learned APP that some of the circumstances are very strong, however, although charge-sheet was filed on 22.12.2022, there is no progress in the trial. Even the charge is also not framed yet. The Applicant is working as a construction labourer.

8. There are no antecedents.

9. Ms. Kondekar, learned Counsel appearing for the Applicant

submitted that as several witnesses are residing in Sangli, the Applicant will therefore not reside within District - Sangli and that the Applicant will reside at the residence of Mr. Sanjay Balaso Pawar, Ganesh Nagar, Galli No. 9, Ichalkaranji, District - Kolhapur.

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

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

ORDER

(a) The Applicant - Mr. Daulat Sarjerao Pawar be released on bail in connection with C. R. No. 361 of 2022 registered with the Sangli Police Station(Rural), District- Sangli on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter the Sangli - 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 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 Shahapur Police Station, Ichalkaranji once in a month, on first Sunday between 11.00 a.m.

and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Shahapur Police Station, Ichalkaranji 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 witness 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.

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, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]