

AGK

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

BAIL APPLICATION NO.3448 OF 2023

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Rajendra Mahadev Mahadik

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Satyajeet Mane with Mr. Aniket Nikam i/by Mr.
Amit Icham for the applicant.

Mr. Pankaj P. Deokar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 5, 2024

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short "Cr.P.C.") in connection with CR No.1 of 2022 registered with Paud Police Station for offences punishable under Section 302 read with Section 34 of the Indian Penal Code ("IPC") and under Section 4 read with Section 27 of the Arms Act.

2. The gist of the prosecution case is as under:

One Kuldeep Hiranman Pawar lodged the First Information Report on 1 January 2022 alleging that he is residing with joint family consisting of his wife, children, brother Abhijeet Alias Sonya, his wife Swati and their children. His wife Swati on 27

December 2022 informed him that the accused No.1 Rajendra and Abhijeet had quarrel with each other at Belawade Village. Accused No.1-Rajendra was having suspicion that his wife had an affair with Abhijeet. It is alleged that on 28 December 2021 around 8.00 a.m. accused No.1-Rajendra came along with his wife Rekha at the house of Abhijeet. Abhijeet was not present at that time. Accused No.1 told Abhijeet's wife that her husband is having an extra marital affair with his wife and threatened to kill her husband. Thereafter, he left from his house. It is alleged that on 1 January 2022 at around 11.00 a.m. Abhijeet went to Katkari Wasti, Village Belawade. However, he did not return and, therefore, his wife asked his brother Mahesh to search for him. His wife learnt at around 11.30 p.m. that there had been quarrel between the deceased and accused No.1 Rajesh. It was alleged that their neighbor Usha Tonde had also informed the informant at about 1.30 p.m. that quarrel had taken place between Abhijeet and accused No.1. Therefore, informant went to the Katkari Wasti, Village Belawade. He found deceased in pool of blood and seriously injured. He saw various injuries caused by sharp weapon over forehead, chick and face of deceased. Abhijeet has succumbed to these injuries. The informant, therefore, lodged C.R. No.1 of 2022.

3. The investigating officer carried out investigation and after completion of investigation filed charge sheet against the accused persons including the applicant. The applicant filed application under Section 439 of Cr.PC. seeking bail before learned Sessions Judge. The said application has been rejected by the learned

Sessions Judge. Aggrieved thereby, the applicant has filed present bail application.

4. Learned advocate for the applicant invited my attention to the order passed by this Court in Criminal Bail Application No.179 of 2023 releasing co-accused Ashish Vinayak Mahadik on bail. He submitted that similar role was assigned to the applicant. Hence, the present applicant deserves to be released on bail based on principle of parity.

5. Learned APP objected to the grant of relief of bail to the applicant. He submitted that the order of this Court has no application in the facts of the present case as the wife and brother-in-law attributed specific role to the applicant. The wife in her statement stated that the deceased disclosed to her before the incident that the applicant along with other accused were assaulting the deceased.

6. I have considered the material on record and order passed by this Court in Bail Application No.179 of 2023. On perusal of the material, it appears that the applicant is assigned similar role as that of applicant in Bail Application No.179 of 2023. All other circumstances regarding recovery are similar. Therefore, the applicant deserves benefit of principle of parity. Hence, following order:

- a) The bail application is allowed;
- b) The applicant, Rajendra Mahdev Mahadik be released on bail in C.R. No.1 of 2022 registered with Paud Police Station, Pune for the offences punishable under Sections 302

read with 34 of the IPC and under Sections 4 read with Section 27 of the Arms Act, on furnishing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand Only) with one or two sureties in the like amount;

c) The applicant shall remain present before the Trial Court on each date unless exempted by the Sessions Court;

d) The applicant shall furnish details of his residence and cell-phone number to the investigating officer and shall communicate change of address, if any, to the investigating officer within two weeks from change of such address;

e) The applicant shall attend the concerned police station once in a month on first Monday of every month between 11.00 a.m. to 2.00 p.m. till conclusion of trial;

f) The applicant shall not tamper with the evidence of the prosecution and shall not influence the witnesses.

7. The bail application, accordingly, stands disposed of. No costs.

(AMIT BORKAR, J.)