



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.408 OF 2024

Nilesh Jivan Thorat

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

CRIMINAL BAIL APPLICATION NO.3432 OF 2023

Santosh Mohan Thorat

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Chetan Deshmukh, Advocate for the Applicant in B.A.No.408/2024.

Mr. Aniket Vagal a/w. Mr. Kunal N. Pednekar, Mr. Divesh Mehani and Ms. Savvy Kolhekar, Advocates for the Applicant in B.A.No.3432/2023.

Ms. Veera Shinde, APP for the Respondent-State.

Mr. Sukdeo R. Dharan, P.S.I. attached to Nashik Taluka Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 12th FEBRUARY 2024

PC:-

1. Heard Mr. Deshmukh, learned Counsel appearing for the Applicant in Criminal Bail Application No.408 of 2024, Mr. Vagal, learned Counsel appearing for the Applicant in Criminal Bail Application No.3432 of 2023 and Ms. Shinde, learned APP appearing for the Respondent-State.

2. These regular Bail Applications are preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	169 of 2023
2.	Date of registration of F.I.R.	19/05/2023
3.	Name of Police Station	Nashik Taluka Police Station
4.	Section/s invoked	302, 201, 120(B) r/w. 34 of the I.P.C., 1860 37(1)(3), 135 of the Maharashtra Police Act, 1951.
5.	Date of incident	19/05/2023
6.	Date of arrest	20/05/2023 (B.A. 408/2024) 19/05/2023 (B.A. 3432/2023)
7.	Date of filing Charge-sheet	17/08/2023

3. As per the prosecution case, deceased-Bhanudas Gaikwad was using the motorcycle belonging to the Accused No.1-Tushar Thorat without his permission and therefore Accused No.1-Tushar Thorat and Accused No.2-Ram Thorat took Bhanudas Gaikwad on the motorcycle to an open space and assaulted him with P.V.C. pipe and wooden stick. At that place, the present Applicants i.e. Accused No.3-Santosh Thorat and Accused No.4-Nilesh Thorat

came and they both assaulted the deceased with kicks and fist blows.

4. Mr. Deshmukh, learned Counsel appearing for the Applicant in Criminal Bail Application No.408 of 2024 and Mr. Vagal, learned Counsel appearing for the Applicant in Criminal Bail Application No.3432 of 2023 submitted that the role attributed to the present Applicants is that they have assaulted the deceased with kicks and fist blows. They submitted that the incident has occurred suddenly and in a spur of the moment. They submitted that Charge-sheet is filed and that there is no progress in the trial and even the charge is also not framed.

5. On the other hand, Ms. Shinde, learned APP appearing for the Respondent-State strongly opposed the Bail Applications. She submitted that there are two eye-witnesses to the incident. The deceased has been assaulted mercilessly and he succumbed to the resultant injuries. Therefore, she submitted that the Bail Applications be rejected. However, on instructions she submitted that there are no criminal antecedents against the Applicants.

6. Perusal of the record shows that the incident in question occurred on 18th May 2023, the F.I.R. was lodged on 19th May 2023 and Charge-sheet was filed on 17th August 2023. As per the Charge-sheet there are about 24 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time. The statement of witnesses shows that the Accused Nos.1 and 2 have assaulted the deceased with P.V.C. Pipe and wooden stick, whereas the role attributed to the present Applicants is that they have assaulted the deceased with kicks and fist blows.

7. There are no criminal antecedents against the present Applicants.

8. Mr. Deshmukh, learned Counsel appearing for the Applicant in Criminal Bail Application No.408 of 2024 states that as several witnesses are residing in the same locality as that of the said Applicant, the Applicant will reside at C/o. Somnath Pandurang Chavan, Om Sai Apartment, Flat No.3, Plot No.39, Chetana Nagar, Nashik, District-Nashik.

9. Mr. Vagal, learned Counsel appearing for the Applicant in Criminal Bail Application No.3432 of 2023 states that as several witnesses are residing in the same locality as that of the said Applicant, the Applicant will reside at C/o. Suresh Narayan Deokar, Deolali Village, Nashik Road, Nashik, District-Nashik.
10. The Applicants do not appear to be at risk of flight.
11. Accordingly, the Applicants can be enlarged on bail by imposing conditions.
12. In view thereof, the following order:-

ORDER

- (a) The Applicants-Nilesh Jivan Thorat and Santosh Mohan Thorat be released on bail in connection with C. R. No.169 of 2023 registered with the Nashik Taluka Police Station, District-Nashik on their furnishing P. R. Bond of Rs.25,000/- each with two solvent sureties each in the like amount.

- (b) On being released on bail, the Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicants shall not enter village Vilholi, Taluka and District-Nashik and village Rajur Bahula, Taluka and District-Nashik and the jurisdiction of Nashik Taluka Police Station unless called by the Investigating Officer.
- (d) The Applicants shall report to the Nashik Rural Police Station, District-Nashik once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial.
- (e) 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.

- (f) The Applicants shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.
- (g) The Applicants shall attend the trial regularly. The Applicants shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicants shall surrender their passport, if any, to the Investigating Officer.

13. The Bail Applications are disposed of accordingly.

14. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its own merits and uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]