

Arjun

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

BAIL APPLICATION NO.3484 OF 2023

Akshay Hanumant Jadhav

...Applicant

Versus

State of Maharashtra

...Respondent

 Ms. Shubhangi Parulekar, for the Applicant.

Mr. Sameer M. Mangaonkar, APP, for the Respondent-State.

P.S.I. Vishnu Deshmukh, Loni Kalbhor Police Station, present.

CORAM : MADHAV J. JAMDAR, J.
DATED : MARCH 07, 2024**P.C.:**

1. Heard Ms. Parulekar, learned Counsel for the Applicant and Mr. Mangaonkar, 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.	366 of 2021
2	Date of registration of F.I.R.	11/07/2021
3	Name of Police Station	Loni Kalbhor Police Station, District-Pune
4	Section/s invoked	302, 201 r/w 34 of the <i>I.P.C.</i> , 1860

5	Date of incident	11/07/2021-12/07/2021
6	Date of arrest	12/07/2021
7	Date of filing Charge-sheet	October 2021

3. As per the prosecution case, the Applicant and other co-Accused and the deceased-Gautam *alias* Amol Salunkhe are friends. On the day of the incident, they all went to consume liquor together and the incident in question took place after about 12.30 a.m.. The deceased stood as surety to the wife of one Avinash Shinde and the co-Accused-Hrushikesh Sanjay Boregave has enmity with said Avinash and therefore the incident took place. The deceased was killed by the Applicant and other co-Accused by throwing stones and as per the Post-Mortem Examination Report, the cause of death is head injury.

4. Ms. Parulekar, learned Counsel for the Applicant submitted that the Applicant was apprehended on 12th July 2021 and Charge-sheet has been filed in October 2021 and till date there is no further progress in the trial. As per the Charge-sheet, there are about 20 witnesses proposed to be examined by the prosecution. She has relied on the Order dated 23rd November 2022 passed by a learned Single Judge [Smt. Anuja Prabhudessai, J.] in Bail Application No.1062 of 2022 and submitted that parity is applicable. The role of the present Applicant is also the same as that of the Applicant in Bail

Application No.1062 of 2022. Therefore, the Applicant is entitled to be released on bail.

5. A perusal of the record shows that when the incident in question took place, the Accused and the deceased were under the influence of alcohol. The entire case is based on circumstantial evidence.

6. Learned APP strongly opposed the Bail Application. He submitted that an Auto-rickshaw i.e. the vehicle used to commit the offence in question, is recovered at the instance of the present Applicant. The Applicant was last seen together with the deceased. There is an extra judicial confession and the statement of witness is also recorded under Section 164 of the Code of Criminal Procedure, 1973. Therefore he submitted that the Bail Application be rejected. On taking instructions, he submitted that there are no other antecedents against the Applicant.

7. It is an admitted position that investigation has been completed and that Charge-sheet has been filed. The trial is likely to take a considerably long time.

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. In view thereof, the following order:-

ORDER

- (a) The Applicant-Akshay Hanumant Jadhav be released on bail in connection with C.R. No.366 of 2021 registered with the Loni Kalbhor Police Station, District- Pune on his furnishing P.R. Bond of Rs.25,000/- 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 Loni Kalbhor Police Station, District-Pune once in a 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.

11. The Bail Application is disposed of accordingly.

12. It is clarified that the observations made herein are *prima*

facie and the trial Court shall decide the case on its merits, and uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]