



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3566 OF 2023

Mohd. Kais Shahnawaz Tade & Ors. ...Applicants
Versus
The State of Maharashtra ...Respondent

Mr. H. H. Ponda, Mr. Mukesh Modi i/b. Mr. Gaurav Choubey,
Advocates, for the Applicants.
Mr. Prasanna P. Malshe, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 15th MARCH 2024

PC:-

1. Heard Mr. Ponda, learned Counsel for the Applicants and Ms. Malshe, 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.	102 of 2023
2.	Date of registration of F.I.R.	01/05/2023
3.	Name of Police Station	Panvel Taluka, District-Raigad
4.	Section/s invoked	307, 143, 144, 147, 148, 149, 504 of the I.P.C., 1860 later on 307 was converted into Section 302 of the I.P.C., 1860

5.	Date of incident	30/04/2023
6.	Date of arrest of the Accused Nos.1 to 5	02/05/2023
7.	Date of arrest of the Accused Nos.6 to 7	07/07/2023
8.	Date of arrest of the Accused No.8	08/07/2023
9.	Date of filing of Charge-sheet	25/07/2023

3. As per the prosecution case, the Accused No.6-Shahnawaz Tade *alias* Salim runs a meat shop and behind the same there is a farmhouse of one Mishra. There is a bore-well in the said farmhouse and both families were using the water from that bore-well. The Informant is also having a house nearby. The Informant on 30th April 2023 at about 10.00 p.m., found that the water from the said bore-well has been lifted into a tank of the Accused No.6 and therefore he asked the security guard as to why he was not supplying the water to him. Then Salim Tade came out of his house, abused him and quarrelled with him. Hearing this quarrel Shahrukh and Kais who are sons of Salim Tade reached there. Kais had one iron rod in his hand while Shahrukh had a Bamboo in his hand. They both assaulted the informant with these weapons. The Informant sustained injury on his forehead. Then, he called his

sons. After some time, sons of Informant namely Binesh, Sineesh, and Sijeesh reached the spot. Meantime Salim Tade, wife of Salim Tade, his four sons and other Accused reached there. All of them assaulted the Informant and his sons with iron rod, bamboo, and knife. Wife of Salim Tade had brought knife to kill Informant's sons. Salim Tade instigated other Accused to kill them. In that assault, Binesh sustained bleeding injury below his left eye, Sineesh sustained bleeding injury to left side of his waist while Sijeesh sustained bleeding injury to his back. After assault, all Accused left the spot. Then Informant called his friends and relatives and they were shifted in the hospital. After treatment the F.I.R. was lodged on 1st May 2023. Later on, Binish Nair i.e. elder son of Informant succumbed to the resultant injuries therefore, Section 302 of the *Indian Penal Code, 1860* was added.

4. It is the contention of Mr. Ponda, learned Counsel for the Applicants that although there is allegation of assault on the Informant, there are no injuries on the Informant. The motive attributed to the Applicants is petty quarrel over water supply and there are no criminal antecedents against the Applicants.

5. On the other hand, Mr. Malshe, learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that all the Accused assaulted the injured and the deceased. He submitted that the Informant and other family members are the eye-witnesses. He pointed out the injuries on the deceased as well as injuries on the injured persons and submitted that bail be not granted.

6. Perusal of the record shows that in the present case, the incident in question occurred on 30th April 2024, F.I.R. was lodged on 1st May 2023, the Accused Nos.1 to 5 were arrested on 2nd May 2023, Accused Nos.6 and 7 were arrested on 7th July 2023 and Accused No.8 was arrested on 8th July 2023 and, Charge-sheet was filed on 25th July 2023. Therefore, the investigation is complete. As per the Charge-sheet, there are 27 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.

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

8. *Prima facie*, there is substance in the contention of Mr. Ponda, learned Counsel for the Applicant that the incident in question occurred on the spur of the moment and as a result of a petty quarrel over water supply. The entire family is incarcerated including Accused No.8, who is a home-maker aged 51 years. The Applicant No.6 is also a senior citizen aged 61 years and other Applicants are young.

9. Mr. Ponda, learned Counsel appearing for the Applicants after taking instructions states that as several witnesses are residing in the same locality as that of the Applicants, the Applicants will therefore not reside within Taluka - Panvel, District – Raigad and that the Applicants will reside at Room No.16/17, Gulshan Nagar, Amar Day Road, Sahad, Ulhasnagar-1, District – Thane.

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 Applicant No.1 – Mohd. Kais Shahnawaz Tade, Applicant No.2 – Shahrukh Shahnawaz Tade, Applicant No.3 – Shakip Shahnawaz Tade, Applicant No.4 – Abdul Rahim Asif Shah, Applicant No.5 – Saif Mushtaq (Mustafa) Sheikh, Applicant No.6 – Shahnawaz Yukub Tade, Applicant No.7 – Asif *alias* Sarif Aarif Ansari and Applicant No.8 – Shainaz Shahnawaz Tade be released on bail in connection with C.R. No.102 of 2023 registered with the Panvel Taluka Police Station, Taluka - Panvel District - Raigad on their furnishing P.R. Bond of Rs.10,000/- each with one or two local solvent sureties each in the like amount.
- (b) The Applicants shall not enter the Taluka-Panvel, District-Raigad 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 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.
- (d) Except the Applicant No.8, the Applicant Nos.1 to 7 shall report to the Ulhasnagar-1 Police Station, District – Thane 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 Ulhasnagar – 1 Police Station, District – Thane to communicate details thereof to the Investigating Officer.
- (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 prosecution evidence and shall not contact or influence the

Complainant or any witness in any manner.

(g) The Applicants shall attend the trial regularly. The Applicant 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 Application is 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 merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]