



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3769 OF 2023

Jitesh Ganesh Mhatre ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Tanveer A. Patel, Advocate for the Applicant.
Ms. Veera Shinde, APP for the Respondent-State.
Mr. Gajanan Takde, PSI, Kamothe Police Station present.

CORAM : MADHAV J. JAMDAR, J.
DATED : 18th JANUARY 2024

P. C.

1. Heard Mr. Patel, learned Counsel appearing for the Applicant and Ms. Shinde, 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.	201 of 2015
2.	Date of Registration of F.I.R.	18/10/2015
3.	Name of Police Station	Kamothe Police Station, Taluka-Panvel, District-Raigad
4.	Section/s invoked	302 of I.P.C., 1860
5.	Date of Incident	18/10/2015
6.	Date of Arrest	18/10/2015
7.	Date of granting bail	02/03/2016

8.	Date of arrest for not attending the trial	07/08/2023
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3. It is the contention of Mr. Patel, learned Counsel appearing for the Applicant that the entire case of the prosecution is based on the confessional statement of the Applicant. As per the prosecution case, on 18th October 2015, at about 9.45 p.m., the Applicant went to Kamothe Police Station and informed the Police Official there that he was consuming liquor in Kamothe village near a pond and went to attend nature's call. At that time, an unknown person consumed his liquor and therefore he got infuriated and then he assaulted the said unknown person on his head with a stone.

4. The Applicant was enlarged on bail *vide* Order dated 2nd March 2016 passed in Criminal Miscellaneous Application No. 189 of 2016 by the learned Additional Sessions Judge, Raiagad-Alibag. The Applicant was again arrested on 7th August 2023 as he was not attending the trial. The Applicant after arrest filed a fresh Bail Application bearing Exhibit-31 in Sessions Case No. 182 of 2019 and the same has been rejected *vide* Order dated 20th September 2023 passed by the learned Additional Sessions Judge, Panvel, District-

Raigad. The learned Additional Sessions Judge observed that the conduct of the accused shows that he has misused the liberty granted to him and has delayed the trial.

5. Mr. Patel, learned Counsel appearing for the Applicant tenders an affidavit/undertaking of the mother of the Applicant i.e. Manjula Ganesh Mhatre dated 15th January 2024. In her affidavit/undertaking she has stated that the Applicant is the only earning member of her family comprising of her husband, herself and the Applicant. The Applicant is a Auto-Rickshaw Driver. In the affidavit/undertaking it has been stated that after the COVID-19 pandemic, the Applicant was not aware about the dates of the trial as he was not in contact with the Advocate appearing in the Trial Court. She has further stated that she is working as a street vendor selling flowers to earn a livelihood for herself and her aged husband. She further stated that she will ensure the presence of the Applicant on each and every date in the Trial Court. She has further stated that the Applicant will reside with her and her husband in Kamothe Gaon, Taluka Panvel, District-Raigad.

6. Although, the trial has commenced and the next date in the trial before the learned Sessions Judge is 1st February 2024, the trial

is unlikely to conclude any time soon and is likely to take a considerably long time. The Applicant does not have any criminal antecedents.

7. The Applicant does not appear to be at 'flight risk'.

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

ORDER

(a) The Applicant-Jitesh Ganesh Mhatre be released on bail in connection with C.R. No.201 of 2015 registered with the Kamothe Police Station, Taluka-Panvel, District-Raigad on his furnishing P. R. Bond of Rs.5,000/- with one or two local 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 there is any change.

(c) The Applicant shall report to the Kamothe Police Station, Taluka-Panvel, District-Raigad on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of

the trial.

(d) The Applicant shall not leave the jurisdiction of Kamothe Police Station without obtaining permission of the learned Trial Court.

(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 evidence and shall not contact or influence the complainant or any witnesses 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.

9. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]