

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

**BAIL APPLICATION NO. 3782 OF 2023**

Pawan *alias* Naresh Manik Kasbe

.Applicant

*Versus*

The State of Maharashtra

.Respondent

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Mr. Aniket Vagal a/w. Ms. Savvy Kolhekar, Advocates for the Applicant.  
Ms. Veera Shinde, APP, for the Respondent – State.

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**CORAM:MADHAV J. JAMDAR, J.**

**DATE :05.03.2024**

**P C.**

1. Heard Mr. Vagal, learned Counsel for the Applicant and Ms. Shinde, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* (“CrPC”). The relevant details are as follows:-

|    |                                |                                                                                                             |
|----|--------------------------------|-------------------------------------------------------------------------------------------------------------|
| 1. | C. R. No.                      | 179 of 2023                                                                                                 |
| 2. | Date of registration of F.I.R. | 11.07.2023                                                                                                  |
| 3. | Name of Police Station         | Gangapur Police Station,<br>District - Nashik                                                               |
| 4. | Date of incident               | 08.07.2023                                                                                                  |
| 5. | Date of arrest                 | 11.07.2023                                                                                                  |
| 6. | Date of death of deceased      | 25.07.2023                                                                                                  |
| 7. | Date of filing of Charge-sheet | October 2023                                                                                                |
| 8. | Sections invoked               | 302, 307, 326, 232, 504, 506 r/<br>w. 34 of the I.P.C., 1860;<br>135 of the Maharashtra Police<br>Act, 1951 |

3. As per the prosecution case, the Deceased has stolen the cell phone of the sister of the Accused No.1 – Prem Vyalij because of which some altercation took place between the Accused and the Deceased and accused assaulted the deceased. There are in all four Accused. Accused No.1 – Prem Vyalij has been released on bail by the learned Sessions Court. The Applicant is Accused No.4.

4. Mr. Vagal, learned Counsel for the Applicant submitted that even as per the prosecution case, the Applicant has only brought a wooden rod and Accused – Deepak has taken the same from the hands of the Applicant and then he assaulted the deceased. In any case, he submitted that even if the role attributed to the Applicant is that he assaulted the deceased with a wooden rod, then also the assault by the Applicant is not the cause of death. He submitted that as per the P. M. Report, death is due to bilateral pneumonitis with septicemia in case of sharp injuries over chest, back and polytrauma. He submitted that the incident in question has taken place on the spur of the moment and in a sudden quarrel. He submitted that therefore, the Applicant is entitled to be released on bail.

5. On the other hand, Ms. Shinde, learned APP for the Respondent – State vehemently opposed the Bail Application. She submitted that in fact, the Applicant was the first to assault the deceased and thereafter,

others started assaulting the deceased. She submitted that there are about nine antecedents against the Applicant. She therefore submitted that the Bail Application may be rejected.

6. Mr. Vagal, learned Counsel tenders a chart insofar as the antecedents are concerned. He submitted that in two cases, the Applicant was a juvenile at the time of the incidents and therefore a child in conflict with law and same were disposed of. In three cases, the Applicant has been acquitted and in one case, the trial is in progress. He submitted that although Charge-sheet mentions 2 cases as antecedents, the Applicant is not accused in those cases. The chart which has been given by the Applicant is reproduced herein below:-

| Sr. No. | C. R. No.   | Under Section                           | Current Status                                                |
|---------|-------------|-----------------------------------------|---------------------------------------------------------------|
| 1       | 44 of 2007  | 379 r/w. 34 of the I.P.C., 1860         | Accused was juvenile. Disposed off.                           |
| 2       | 203 of 2008 | 379 r/w. 34 of the I.P.C., 1860         | Accused was juvenile. Disposed off.                           |
| 3       | 31 of 2011  | 379 r/w. 34 of the I.P.C., 1860         | Accused was juvenile. Disposed off. Applicant is not accused. |
| 4       | 38 of 2013  | 307 r/w. 34 of the I.P.C., 1860         | On bail. Trial is at fag end. Complainant turned hostile      |
| 5       | 180 of 2013 | 454, 457, 380 , 427 of the I.P.C., 1860 | Acquitted                                                     |
| 6       | 147 of 2014 | 384, 504, 506 of the I.P.C., 1860       | Acquitted                                                     |
| 7       | 14 of 2014  | 326, 323 of the I.P.C., 1860            | Acquitted                                                     |
| 8       | 98 of 2016  | 325, 323, 504 r/w. 34 of the IPC        | Not an accused                                                |

|   |            |                     |                |
|---|------------|---------------------|----------------|
| 9 | 35 of 2014 | 399, 402 of the IPC | Not an accused |
|---|------------|---------------------|----------------|

7. A perusal of the record shows that the incident in question had taken place on 08.07.2023. The Applicant was arrested on 11.07.2023. The statement of Ms. Rutuja Shubham Rajguru recorded under Section 164 of the CrPC shows that in fact the Applicant had taken the deceased to the hospital. It was only because the deceased had mentioned the name of the Applicant as one of the assailants, the Applicant ran away from the hospital.

8. The trial is likely to take a considerably long time.

9. The Applicant does not have any criminal antecedents.

10. The Applicant does not appear to be at risk of flight.

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

### **ORDER**

(a) The Applicant - Pawan *alias* Naresh Manik Kasbe be released on bail in connection with C. R. No.179 of 2023 registered with the Gangapur Police Station, District – Nashik 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 Gangapur Police Station, District – Nashik once a week on the Sunday of every week 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.

12. The Bail Application is disposed of accordingly.

13. 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.]