

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

CRIMINAL BAIL APPLICATION NO. 3877 OF 2023

Ashok Ganpat Gaikwad	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Satyavrat Joshi (through VC) i/by Kanishka Hasabnis, Advocates for the Applicant.
S.S. Kaushik, APP for Respondent- State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 28th February 2024

P. C.

1. Heard Mr. Joshi, learned Counsel appearing for the Applicant and Ms. Kaushik, 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.	488 of 2019
2.	Date of registration of F.I.R.	29th November 2019
3.	Name of Police Station	Paud Police Station, Pune, District-Pune
4.	Section/s invoked	302, 120B r/w 34 of <i>Indian Penal Code, 1860</i> .
5.	Date of incident	27th November 2019 to 28th November 2019
6.	Date of arrest	29th November 2019

3. As per the prosecution case, the deceased has taken Rs.1,00,000/- from the Applicant for making some changes in the agricultural land record and as the deceased could not get the said work done and therefore the Applicant was demanding said amount back and as the said amount was not returned is the motive for committing the offence in question.

4. Mr. Joshi, learned Counsel appearing for the Applicant submitted that the Applicant is in custody since 29th November 2019 and till date there is no progress in the trial and even the charge is not framed yet. Mr. Joshi submitted that the case is of circumstantial evidence. There are no eye-witnesses and there is no active role of the present Applicant. He submitted that co-Accused - Mahesh Dattu More has been released on bail by Order dated 8th December 2022 passed by learned Single Judge [N.R. Borkar, J.] in Criminal Bail Application No.3034 of 2022 and he is seeking parity.

5. On the other hand, Ms. Kaushik, learned A.P.P. strongly opposed the Bail Application. She submitted that there is recovery of blood-stained clothes and motorcycle at the instance of the present Applicant. There are 3 witnesses who have last seen the Applicant with the deceased. She also pointed out the statement of wife of the deceased which shows that one day before the incident the Applicant had gone to her residence and threatened her.

6. Perusal of record shows that the incident in question occurred on the intervening night of 27th November 2019 and 28th November 2019, F.I.R. was lodged on 29th November 2019 and the Applicant was apprehended on 29th November 2019. Till date, there is no progress in the trial and even the charge is not framed yet. The trial is likely to take a considerably long time.

7. The case is of circumstantial evidence. The role alleged against the Applicant is same as the one attributed to the Accused No.2 - Mahesh in the actual incident who has been released on bail.

8. Mr. Joshi, learned Counsel appearing for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within District-Pune and that the Applicant will reside at address C/o Manisha Santosh Devkar, At Kanegaon, Khopoli, Taluka-Khalapur, District-Raigad.

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

10. The Applicant does not have any criminal antecedents.

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

ORDER

(a) The Applicant - Ashok Ganpat Gaikwad be released on bail in connection with C. R. No.488 of 2019 registered with the Paud Police

Station, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter the District-Pune 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 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.

(d) The Applicant shall report to the Khopoli Police Station, Taluka-Khalapur, District-Raigad once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Khopoli Police Station, Taluka-Khalapur, District-Raigad to communicate details thereof to the Investigating Officer.

(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 prosecution evidence and shall not contact or influence the Complainant or any prosecution witness 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.

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 own merits, uninfluenced by the observations made in this Order.

BHALCHANDRA
GOPAL DUSANE

[MADHAV J. JAMDAR, J.]

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