



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3950 OF 2023

Uttam Mahadeo Madane

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. B. A. Lawate, Advocate for the Applicant.

Ms. Veera Shinde, APP for the Respondent-State.

Mr. Sachin S. Jagtap, A.S.I. - Sangola Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 7th FEBRUARY 2024

PC:-

1. Heard Mr. Lawate, learned Counsel appearing for the Applicant and Ms. Shinde, learned APP appearing for the Respondent-State.

2. The present Applicant is Accused No.2 in C.R. No.878 of 2021 registered with Sangola Police Station, Solapur Rural, Solapur.

3. 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.	878 of 2021
2.	Date of Registration of F.I.R.	15/07/2021
3.	Name of Police Station	Sangola Police Station, District-Solapur
4.	Section/s invoked	302, 201, 120-B r/w. 34 of the I.P.C.,1860
5.	Date of incident	11/07/2021
6.	Date of arrest	28/07/2021
7.	Date of filing Charge-sheet	22/10/2021

4. At the outset, it is to be noted that Co-Accused-Satish Mahadeo Madane was released on bail by a learned Single Judge (Coram : C. V. Bhadang, J.) by Order dated 2nd March 2022 passed in B. A. No.4358 of 2021, Co-Accused-Prakash Gorakh Kolekar was released on bail by a learned Single Judge (Coram : N. R. Borkar, J.) by Order dated 15th November 2022 passed in B. A. No.2278 of 2022, Co-Accused-Vilas Babu Sargar was released on bail by a learned Single Judge (Coram : Shivkumar Dige, J.) by Order dated 17th October 2023 passed in B. A. No.3929 of 2022 and Co-Accused-Santosh Vitthal Pandhare has been granted bail by this Court by Order dated 23rd January 2024.

5. As per the prosecution case, Accused No.1 – Vilas Babu Sargar is the main conspirator. In the incident in question, Vijay

Vilas Sargar i.e. son of Accused No.1 has been killed. The statement of Kavita Vilas Sargar-mother of the deceased, recorded on 4th August 2021 shows that the deceased used to abuse and assault family members of Accused No.1 for the past three to four years. He used to assault the family members by fist and kick blows and also with other weapons. The said statement of the mother of the deceased also shows that on 11th July 2021, said Vijay Sargar went with a small tempo, bearing No.MH-09/CU/0464 for purchasing some material. He did not return for about two to three days. Therefore, the family members were insisting Accused No.1 – Vilas Sargar i.e. father of the deceased to lodge a complaint with the Police. However, Accused No.1 – Vilas Sargar informed them that henceforth the deceased would not return to the house and would not abuse and assault the family members. According to the prosecution, Accused No.1 had given a contract to Accused Nos. 2 to 5 to kill the deceased. As per the prosecution case, Accused Nos. 2 to 5 have actually killed the deceased.

6. Mr. Lawate, learned Counsel appearing for the Applicant submitted that the entire prosecution case is based on circumstantial evidence. There are no eye-witnesses to the actual

incident. Except for the present Applicant (Accused No.2), all the other Accused have been enlarged on bail. He further submitted that in fact, Accused No.1 is the main conspirator and he has been granted bail by a learned Single Judge (Coram : Shivkumar Dige, J.) by Order dated 17th October 2023 passed in B. A. No.3929 of 2022. He submitted that the Applicant was arrested on 28th July 2021 and although Charge-sheet is filed on 22nd October 2021, there is no progress in the trial and therefore, the Applicant be enlarged on bail.

7. Ms. Shinde, learned APP appearing for the Respondent-State vehemently opposed the Bail Application on the ground that although the case is of circumstantial evidence, there is incriminating material against the present Applicant. She submitted that there is a recovery of cellular phone, Aadhaar Card and clothes of the deceased at the instance of the present Applicant. She further submitted that the phone conversation between the Accused No.1 and the present Applicant i.e. Accused No.2 clearly shows that the present Applicant is involved in the offence in question. She further submitted that on 11th July 2021, the present Applicant and Accused No.4-Prakash Gorakh Kolekar

purchased a sickle, which has been used to commit the offence in question.

8. Mr. Lawate, learned Counsel appearing for the Applicant submitted that as far as purchase of sickle is concerned, as per the prosecution case, the sickle was purchased by the present Applicant and Accused No.4-Prakash Gorakh Kolekar. He submitted that said Prakash Kolekar has already been released on bail by Order dated 15th November 2023 passed by a learned Single Judge. As far as recovery is concerned, the date of the incident is 11th July 2021. The F.I.R. has been lodged on 15th July 2021 and recovery was made on 31st July 2021. He submitted that as far as the phone conversation is concerned, the same clearly shows that it is Accused No.1-Vilas Sargar who is the main accused and the main conspirator.

9. This is a case where the offence was registered on 15th July 2021 and the Charge-sheet was filed on 22nd October 2021. The Applicant was arrested on 28th July 2021. Till date, there is no progress in the trial and even the Charge is also not yet framed. As per the Charge-sheet, there are 42 witnesses proposed to be

examined by the prosecution. Thus, trial is not likely to conclude any time soon and is likely to take a considerable time.

10. Mr. Lawate, 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 Solapur district and that the Applicant will reside at C/o. Mr. Raju Sandipan Sargar, At Post-Kargani, Taluka-Atpadi, District-Sangli.

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

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

ORDER

- (a)** The Applicant-Uttam Mahadeo Madane be released on bail in connection with C. R. No.878 of 2021 registered with the Sangola Police Station, Taluka-Sangola, District-Solapur 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 District-Solapur 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 Atpadi Police Station, Taluka-Atpadi, District-Sangli 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 Atpadi Police Station, Taluka-Atpadi, District-Sangli 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 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.

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 own merits and uninfluenced by the observations made in this order.

(MADHAV J. JAMDAR, J.)