

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

BAIL APPLICATION NO. 4083 OF 2023

Sagar Arun Pawar

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Ghansham Jadhav, Advocate, for the Applicant.

Mr. P. P. Deokar, APP, for the Respondent – State.

Mr. Subhash Kisan Phadtare, PSI, Karad City Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 10.04.2024

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1. Heard Mr. Jadhav, learned Counsel for the Applicant and Mr. Deokar, 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.	641 of 2021
2.	Date of registration of F.I.R.	25.09.2021
3.	Name of Police Station	Karad City
4.	Sections invoked	302, 452, 201 of the I.P.C., 1860
5.	Date of incident	24.09.2021
6.	Date of arrest	27.09.2021
7.	Date of filing of Charge-sheet	23.12.2021

3. As per the prosecution, the Applicant and co-Accused in furtherance of the common intention, murdered the sister of co-Accused-Ms. Ujwala Thanekar. The motive alleged was that the

husband of co-Accused had developed close intimacy with the deceased. Thus, over the alleged relationship outside of marriage of husband of co-Accused with the deceased, non-cognizable complaints were filed by the co-Accused against deceased and vice versa on 13th August 2019 and 18th July, 2021. In any case, prosecution alleged that on 24th September 2021, the Applicant and the co-Accused murdered Ujwala, by causing a throat injury with a knife. It appears that, at the material time, the deceased was alone in the house. Soon after the incident, the Applicant was arrested on 27th September, 2021. Upon completing the investigation, the Charge-sheet has been filed.

4. Mr. Jadhav, learned Counsel for the Applicant submitted that the incident in question has taken place on 24.09.2021. F.I.R. was lodged on 25.09.2021 and the Applicant was apprehended on 27.09.2021. He submitted that the Applicant is incarcerated since more than two years and six months. He submitted that the role of the Applicant is similar to that of the co-Accused who has been released on bail by a learned Single Judge (Coram: Sandeep K. Shinde, J.) by Order dated 18.11.2022 passed in B. A. No.1433 of 2022. He, therefore, submitted that the Applicant is entitled to be released on bail. He submitted that there are no antecedents.

5. Mr. Deokar, learned APP vehemently opposed the bail Application. He submitted that there is a child witness who had seen the Applicant alongwith the co-Accused, near the house of the

deceased and that there is recovery of knife at the instance of the Applicant. Therefore, he submitted that the Bail Application may be rejected.

6. A perusal of the record shows that the incident has taken place 24.09.2021. The F.I.R. was lodged on 25.09.2021. The Applicant was apprehended on 27.09.2021. The Charge-sheet was filed on 23.12.2021. Till date, there is no progress in the trial except framing of charge. The Applicant is incarcerated since more than two years and six months. As per the Charge-sheet, there are 37 witnesses proposed to be examined by the prosecution.

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

8. Insofar as co-Accused-Jyoti Sachin Nigade is concerned, she has been granted bail by this Court (Coram : Sandeep K. Shinde, J.) by Order dated 18.11.2022 passed in B. A. No.1433 of 2022. The reasons recorded in paragraph no.5 of the aforesaid order read as under:-

“5. I have heard submission of the learned counsel for the Applicant and learned APP for the state and also perused the final report. The prosecution case is founded on circumstantial evidence. In other words, nobody had seen the applicant entering in the house of deceased, Ujwala, committing her murder. The presence of the applicant near the house of the deceased would not be a incriminating circumstance; reason being, the deceased was a sister of the applicant. Similarly, the hand gloves allegedly purchased by the Applicant, just before the incident and further applicant being identified by the employee of medical shop, would not be a circumstance, against the applicant, for want of its recovery. Even otherwise, investigation is over and Applicant's presence for the trial can be secured by imposing suitable

conditions”

9. It is clear that the role of the Applicant is similar to that of co-Accused-Jyoti Sachin Nigade, who has been granted bail by this Court (Coram: Sandeep K. Shinde, J.) by Order dated 18.11.2022 passed in B. A. No.1433 of 2022. Thus, it is clear that parity is applicable to the present Applicant.
10. The Applicant does not have any criminal antecedents.
11. The Applicant does not appear to be at risk of flight.
12. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
13. In view thereof, the following order:-

ORDER

- (a) The Applicant-Sagar Arun Pawar be released on bail in connection with C. R. No.641 of 2021 registered with the Karad City Police Station, Karad 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 Karad City Police Station, Karad once a month on the first Sunday 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.

14. The Bail Application is disposed of accordingly.

15. 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.]