

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

BAIL APPLICATION NO.4246 OF 2023

Pravin Namdev Naik

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Abdulla Peerzade, Advocate, for the Applicant.

Ms. Savita Yadav, APP, for the Respondent – State.

Mr. N. B. Jadhav, API-Hadapsar Police Station, Pune City, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 27.03.2024

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1. Heard Mr. Peerzade, learned Counsel for the Applicant and Ms. Yadav, 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.	981 of 2022
2.	Date of registration of F.I.R.	07.08.2022
3.	Name of Police Station	Hadapsar, Pune City
4.	Sections invoked	302 of the I.P.C., 1860
5.	Date of incident	02.08.2022
6.	Date of arrest	07.08.2022
7.	Date of filing of Charge-sheet	01.03.2023

3. As per the prosecution case, the Applicant and the deceased were friends. The incident in question has taken place on 02.08.2022.

At the time of the incident, both of them were under the influence of

alcohol and were assaulting each other. Firstly, the deceased assaulted the Applicant with fist blows. Thereafter, the Applicant assaulted the deceased with stones.

4. Mr. Peerzade, learned Counsel for the Applicant submitted that insofar as the incident in question is concerned, it has taken place on the spur of the moment. The deceased and the Applicant were under the influence of alcohol. A quarrel broke out between the Applicant and the deceased and the incident has taken place. He submitted that there is no pre-meditation. Therefore, the Applicant may be released on bail.

5. On the other hand, Ms. Yadav, learned APP for the Respondent – State vehemently opposed the Bail Application. She submitted that there are eye-witnesses to the incident. The incident has been captured on a cell phone. She submitted that the Applicant assaulted the deceased with stones. She pointed out the Post-Mortem Examination Report which records that the death is due to a head injury. She submitted that there is one antecedent punishable under Sections 302 & 504 r/w. 34 of the *Indian Penal Code, 1860*.

6. However, Mr. Peerzade, learned Counsel for the Applicant submitted that insofar as the aforesaid antecedent is concerned, the Applicant has been acquitted in that case. He relied on the Judgment dated 13.02.2019 of the learned Additional Sessions Judge, Pune passed in Sessions Case No.636 of 2016.

7. *Prima facie*, there is substance in the contention advanced by

the learned Counsel for the Applicant that the incident in question has taken place on the spur of the moment. Both the Applicant and the deceased were under the influence of alcohol and the incident in question has taken place during a scuffle between them. Initially, the deceased assaulted the Applicant with fist blows. Thereafter, the Applicant assaulted the deceased with stones. There is no pre-meditation.

8. The incident in question occurred on 02.08.2022. F.I.R. was lodged on 07.08.2022. The Applicant was apprehended on 07.08.2022. Charge-sheet has been filed on 01.03.2023. As per the Charge-sheet, the prosecution intends to examine 18 witnesses. Till date, there is no progress in the trial. Even charge is also not framed yet.

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

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 - Pravin Namdev Naik be released on bail in connection with C.R. No.981 of 2022 registered with the Hadapsar Police Station, Pune City 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 Hadapsar Police Station, Pune City once a week, on 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.]