

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.933 OF 2024

Vikas Hemant Mohite

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Harshvardhan Suryavanshi a/w Reena Prajapati, for the Applicant.

Ms. R. V. Newton, APP, for the Respondent – State.

Mr. S. B. Parkhe, Police Head Constable, Murgud Police Station, District – Kolhapur, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 28 AUGUST 2024

P.C.:

1. Heard Mr. Suryavanshi, learned Counsel for the Applicant and Ms. Newton, 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.	36 of 2023
2.	Date of registration of F.I.R.	6th March 2023
3.	Name of Police Station	Murgud, District–Kolhapur
4.	Section/s invoked	302, 341 & 506 of the <i>Indian Penal Code, 1860</i> ; 3(1), 25(c)(k), 5 r/w 27 of the <i>Arms Act, 1959</i> .
5.	Date of incident	6th March 2023
6.	Date of arrest	6th March 2023
7.	Date of filing Charge-sheet	17th June 2023

3. The present Applicant is Accused No.1. As per the prosecution case, the Accused No.1 i.e. present Applicant was in a relationship outside of marriage with the wife of the deceased and therefore, there were disputes between the Applicant and the deceased. As per the prosecution case, the Accused No.1 i.e. present Applicant killed the deceased with a gun.

4. Mr. Suryavanshi, learned Counsel for the Applicant submitted that although as per the prosecution case the Applicant was in a relationship outside of marriage with the wife of the deceased, however, there is Divorce Decree dated 22nd June 2022 passed by the learned Civil Judge, Senior Division, Kolhapur in Hindu Marriage Petition No.1 of 2022 and accordingly marriage between the deceased and his wife was dissolved. He submitted that there is no motive as alleged by the prosecution for the Applicant to commit the offence. He further submitted that although as per the prosecution case there are eye-witnesses, a bare perusal of the statement of Onkar Shivaji Jadhav dated 6th March 2023 (Page No.23) and the statements of the other eye-witnesses namely Onkar Shivaji Jadhav (Page No.141), Sambhaji Vithu Lugade (Page No.143) and Anil *alias* Ananda Ishwara Dhone (Page No.145) show that they have not actually seen the incident. In any case, he submitted that the investigation is completed and the Charge-sheet has been filed on 17th June 2023. He submitted that there

is no progress in the trial and even the Charge is also not framed. He submitted that the Applicant does not have antecedents. He also submitted that although there is recovery of the gun at the instance of the Applicant, the said recovery is from the open space. He relied on the decision of the Supreme Court in *Manjunath & Ors. v. State of Karnataka*¹ to contend that the recovery from the open space is not reliable.

5. On the other hand, Ms. Newton, learned APP strongly opposed the Bail Application. She submitted that there are 4 eye-witnesses to the incident in question. The Applicant killed the deceased by using the firearm. She therefore submitted that the Bail Application be rejected. On instructions, she submitted that the Applicant has no antecedents.

6. Perusal of the record shows that the incident in question took place on 6th March 2023, the Applicant was arrested immediately on 6th March 2023 and the Charge-sheet has been filed on 17th June 2023. As per the Charge-sheet there are 29 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the Charge is also no framed. Therefore, the trial is likely to take a considerably long time.

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

8. The Applicant does not have any criminal antecedents.

¹ 2023 LiveLaw (SC) 961

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

ORDER

- (a) The Applicant – Vikas Hemant Mohite be released on bail in connection with C.R. No.36 of 2023 registered with the Murgud Police Station, District- Kolhapur on his furnishing PR. 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 Murgud Police Station, District–Kolhapur 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 prosecution 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.

10. The Bail Application is disposed of accordingly.

11. It is clarified that the Trial Court shall decide the case on its merits uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]