

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1313 OF 2024

Ram Tukaram Thorat	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. P. R. Arjunwadkar i/b. Ms. Prabha Badadare, Advocates, for the Applicant.
Ms. Savita M. Yadav, APP, for the Respondent-State.
Mr. Satyajeet Amale, Police Inspector, Nashik Taluka Police Station, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 24th JULY 2024

PC:-

1. Heard Mr. Arjunwadkar, learned Counsel appearing for the Applicant and Ms. Yadav, 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.	169 of 2023
2.	Date of registration of F.I.R.	19/05/2023

3.	Name of Police Station	Nashik Taluka Police Station, District-Nashik
4.	Section/s invoked	302, 201, 120(B) r/w. 34 of the I.P.C., 1860 37(1)(3), 135 of the Maharashtra Police Act, 1951.
5.	Date of incident	18/05/2023
6.	Date of arrest	19/05/2023
7.	Date of filing of Charge-sheet	17/08/2023

3. There are total 4 Accused. The Accused No. 3 – Santosh Thorat and Accused No. 4 – Nilesh Thorat have been released on bail by this Court by Order dated 12.02.2024 passed in Cri. B. A. No. 408 of 2024 and Cri.B. A. No. 3432 of 2023. The present Applicant is Accused No.2.

4. Ms. Yadav, learned APP has filed an affidavit dated 29.07.2024 of Mr. Satyajeet Shashikant Amale, Police Inspector presently attached to Nashik Taluka Police Station, Nashik. The prosecution case is set out in paragraph Nos. 3(a) and 3(b) of the said affidavit, which reads as under:

“3. I say that the prosecution story in short is as under:-

(a) That Orig. Complainant/Informant namely Shri Hiranman Kachru Gaikwad, lodged FIR on 19.05.2023 inter alia stating therein that on 18.05.2023 at about 3.00 p.m. to 5.00 p.m. that deceased Bhanudas Gaikwad was using the motorcycle belonging to accused No.1 Tushar Thorat without his permission and thereby accused No.1 Tushar Thorat and applicant took Bhanudas Gaikwad on motorcycle to open space in front of Boat Club of Vilholi Village. Applicant Ram Thorat and accused No.1 Tushar Thorat assaulted Bhanudas Gaikwad with PVC pipe and wooden Stick, other co-accused Santosh Thorat and Nilesh Thorat also came there and assaulted Bhanudas Gaikwad with kick and fist blow.

(b) It is the case of the Orig. Complainant/Informant that deceased Bhanudas Gaikwad was seriously injured and become unconscious. After that accused No.1 Tushar Thorat and Applicant Ram Thorat took deceased to civil Hospital in Swift car the present Applicant Ram Thorat give false name as Anand Shinde while taking case paper on submitting case paper to medical officer applicant Ram Thorat and Accused No.1 Tushar Thorat ran away from the hospital Medical Officer declared Bhanudas Gaikwad has died. In the incident applicant and co-accused severely assaulted Bhanudas Gaiwad.”

(Emphasis added)

5. It is the contention of Mr. Arjunwadkar, learned Counsel appearing for the Applicant that as per the prosecution case, the deceased was using motorcycle belonging to Accused No.1-Tushar

Thorat without his permission, the Accused No.1-Tushar Thorat and the present Applicant took the deceased on the motorcycle to an open space in front of Boat Club of Vilholi village and assaulted him with a PVC pipe and a wooden stick. He submitted that as the present Applicant is close relative of Accused No.1-Tushar Thorat and just to teach a lesson to the deceased, the deceased was taken to the place of the incident in question and he was assaulted with a PVC pipe and a wooden stick. He submitted that there was no intention to commit the crime as alleged. He further submitted that as the deceased sustained serious injuries, Accused No.1-Tushar Thorat and the present Applicant took the deceased and admitted him in the Civil Hospital. He therefore, submitted that if the entire prosecution case is accepted as it is then also, the offence under Section 302 of the *Indian Penal Code, 1860* is not made out. He submitted that the Charge-sheet has been filed and till date there is no progress in the trial and even the charge is also not framed yet. He submitted that there are no criminal antecedents against the Applicant. He, therefore, submitted that the Applicant be enlarged on bail.

6. On the other hand, Ms. Yadav, learned APP, appearing for the Respondent-State strongly opposed the Bail Application. She pointed out detailed affidavit of Mr. Satyajeet Shashikant Amale, Police Inspector presently attached to Nashik Taluka Police Station, Nashik. She pointed out spot panchnama by which PVC plastic pipe and its pieces and two pieces of broken wooden stick were recovered. She submitted that there are two eye-witnesses to the incident. She pointed out their statements i. e. of Mayur Santosh Zurde (Page-240) and witness- Sukdev Dagadu Lahange (Page-241) recorded under Section 164 of the CrPC. She also pointed out the panchnama regarding CCTV footage which shows that the Applicant and Accused No.1-Tushar Thorat admitted the deceased in the Civil Hospital. She therefore, submitted that as there is an overwhelming evidence on record, the Bail Application be rejected. On instructions, she submitted that there are no criminal antecedents against the Applicant.

7. Perusal of the record shows that in the present case, the incident in question occurred on 18th May 2023, F.I.R. was lodged on 19th May 2023, the Applicant was arrested on 19th May 2023 and, the Charge-sheet was filed on 17th August 2023. As per the

Charge-sheet, there are 24 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the charge is not yet framed. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

8. There are no criminal antecedents against the present Applicant.

9. Mr. Arjunwadkar, 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 village Vilholi, District-Nashik and that the Applicant will reside at C/o. Mr. Somnath Hari Arote, Agastkhind, Tal. Sinnar, District-Nashik.

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

11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

12. In view thereof, the following order:-

ORDER

- (a) The Applicant – Ram Tukaram Thorat be released on bail in connection with C.R. No.169 of 2023 registered with the Nashik Taluka Police Station, District - Nashik 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 Vilholi village, District-Nashik 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 Sinnar Police Station, District - Nashik 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 Sinnar Police Station, District – Nashik 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 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.

13. The Bail Application is disposed of accordingly.

14. 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.]