

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

BAIL APPLICATION NO.1370 OF 2024

Akshay @ Sonya Anant Yewale

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Premkumar Mishra a/w Varuna S. Gade, Ruchira Karve (through VC), Advocates, for the Applicant.

Mr. Y. M. Nakhwa, APP, for the Respondent – State.

Mr. Mahesh Suresh Pawar, PSI-Ghodegaon Police Station, Pune (Rural), present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 29.07.2024

P. C.:

1. Heard Mr. Premkumar Mishra, learned Counsel for the Applicant and Mr. Nakhwa, learned APP for the Respondent-State.
2. The relevant details of this regular Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973* are as follows:

1.	C. R. No.	9 of 2023
2.	Date of registration of F.I.R.	17.01.2023
3.	Name of Police Station	Ghodegaon – Pune (Rural)
4.	Sections invoked	302, 364, 201, 506 r/w 34 of the <i>I.P.C.</i> , 1860
5.	Date of incident	16.01.2023
6.	Date of arrest	17.01.2023
7.	Date of filing of Charge-sheet	18.04.2023

3. As per the prosecution case, Accused Nos.1 to 3 and the deceased were friends. Accused No.1 had borrowed Rs.40,000/- from

the deceased. The incident in question had taken place on 15.01.2023 at 9.00 p.m. near the canal. As per the prosecution case, some altercation broke out amongst Accused No.1, the Deceased and other Accused on account of the Deceased demanding the said amount of Rs.40,000/- from Accused No.1 and the incident in question took place during which the Accused persons had assaulted the Deceased with stones.

4. Mr. Mishra, learned Counsel for the Applicant submitted that the case is of circumstantial evidence. He submitted that no specific role is attributed to the Applicant. There are total 3 Accused. Accused No.2 has been released on bail by this Court by Order dated 19th March 2024 in Bail Application No.1090 of 2024. He submitted that the Sessions Court has granted bail to Accused No.1 by Order dated 22nd July 2024 passed below Exhibit No.14 in Sessions Case No.61 of 2023 by learned Additional Sessions Judge, Khed-Rajgurunagar, District-Pune. He submitted that the material against him is recovery of the vehicle, however, the same belongs to Accused No.2 and recovery of a cellular phone which allegedly belongs to the Deceased. He submitted that there is no evidence on record to show that the said cellular phone belonged to the Deceased. He therefore prayed that the Applicant be enlarged on bail.

5. On the other hand, Mr. Nakhwa, learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that although the case is of circumstantial evidence, as far

as the Applicant is concerned, there are several incriminating circumstances. He submitted that the Applicant was last seen together with the Deceased and there is, at the instance of the present Applicant, recovery of a vehicle which is used in the crime and a cellular phone belonging to the Deceased. He submitted that there is one antecedent i.e. C.R. No. 142 of 2021 against the Applicant with Ghodegaon Police Station, Pune under Section 302, 326, 325, 324, 143, 147, 148, 149, 504, and 506 of the *Indian Penal Code, 1860* a/w Section 135 of *Maharashtra Police Act, 1951* and 3(2)(v), 3(2)(va) of the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989*. He therefore submitted that the Bail Application be rejected.

6. A perusal of the record shows that the incident in question has taken place on 16.01.2023. F.I.R. was lodged on 17.01.2023. The Applicant was apprehended on 17.01.2023. Charge-sheet was filed on 18.04.2023. As per the Charge-sheet, the prosecution intends to examine 51 witnesses. The trial is likely to take a considerably long time.

7. The role attributed to the present Applicant is the same as that of Accused Nos.1 and 2, both of whom have been released on bail. This case is of circumstantial evidence. Although it is correct that there is an antecedent against the present Applicant, however, by Order dated 11th April 2022 passed by the Division Bench in Criminal Appeal No.1043 of 2021, the Appellant therein (i.e. the present

Applicant) has been released on bail in that case. The Division Bench has *inter alia* observed the following while granting bail:

“8. Though the deceased had suffered many injuries, the question is whether the Appellant can be released on bail based on the material available at this stage. As mentioned earlier the Appellant is not named by any of the eyewitnesses including the deceased himself. No test identification parade is held to enable the eyewitnesses to identify the Appellant. There is no recovery at the instance of Appellant. The evidentiary value and the seizure of clothes from the sister of the Appellant hardly carries any weightage. Thus, at this stage, there is hardly any material against the Appellant. Therefore the Appellant deserves to be released on bail.”

The above reasons recorded by the Division Bench while granting bail to the Applicant in the antecedent shows that not much relevance can be given to that aspect.

8. The Applicant does not appear to be at risk of flight.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
11. In view thereof, the following order:

ORDER

- (a) The Applicant - Akshay *alias* Sonya Anant Yewale be released on bail in connection with C. R. No. 9 of 2023 registered with the Ghodegaon Police Station, Pune (Rural) 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 Ghodegaon Police Station, Pune (Rural) once every week i.e. 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.

12. The Bail Application is disposed of accordingly.
13. 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.]