

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2158 OF 2024

Rahul Bhimrao Ujagare	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Madhusudan Pareek, Advocate, for the Applicant.
 Mr. Shriram S. Chaudhari, APP, for the Respondent-State.
 P.S.I. M. T. Nikam, Adgaon Police Station, Nashik City, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 11 JUNE 2024

PC:-

1. Heard Mr. Pareek, learned Counsel for the Applicant and Mr. Chaudhari, 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.	75/2023
2.	Date of registration of F.I.R.	23/02/2023
3.	Name of Police Station	Adgaon, Nashik
4.	Section/s invoked	302, 323 & 34 of the <i>I.P.C., 1860</i> ; 135 of the <i>Maharashtra Police Act, 1951</i> .

5.	Date of incident	22/02/2023
6.	Date of arrest	14/03/2023
7.	Date of filing of Charge-sheet	20/05/2023

3. As per the prosecution case, the deceased wanted to marry the sister of the Accused No.1 and therefore there was some dispute between the Accused No.1 and the deceased. The present Applicant is Accused No.3 and he is the brother-in-law of the Accused No.1. Accused No.2 is the maternal uncle of the Accused No.1. As per the prosecution case, the Accused No.1 assaulted the deceased with a knife and the role attributed to Accused Nos.2 and 3 is that they have assaulted the deceased with kicks and fist blows.

4. Mr. Pareek, learned Counsel for the Applicant submitted that name of the Applicant is not mentioned in the F.I.R. and apart from the Accused No.1, there are two unknown persons named in the F.I.R. He submitted that although in the Test Identification Parade ("T.I. Parade"), witness - Sandeep Pundlik Bejekar (Page 69) and Nitin Sitaram Khairnar (Page 81) have identified the Applicant, however, he states that the T.I. Parade was conducted after a

period of 76 days. He states that the role attributed to the present Applicant is that he assaulted with kicks and fist blows. He submitted that there are no criminal antecedents against the Applicant and therefore the Applicant be released on bail.

5. On the other hand, Mr. Chaudhari, learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that there are eye-witnesses to the incident. The deceased was mercilessly assaulted by all the Accused. He submitted that the Bail Application be rejected. On taking instructions, he submitted that there are no criminal antecedents against the Applicant.

6. Perusal of the record shows that in the present case, the incident in question occurred on 22nd February 2023, F.I.R. was lodged on 23rd February 2023, Applicant was arrested on 14th March 2023 and, Charge-sheet was filed on 20th May 2023. There is no progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there are 39 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

7. As per the Post-Mortem Examination Report, the cause of death is due to haemorrhagic shock due to multiple sharp injuries over chest, abdomen, head, back, and right lower limb which are sufficient to cause death individually and collectively and sharp injuries have been caused by sharp edged weapon or object. *Prima facie*, there is substance in the contention of the learned Counsel for the Applicant that the Applicant is not responsible for the offence as the role attributed to the present Applicant is that of assault by kicks and fist blows.

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

9. 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 - Rahul Bhimrao Ujagare be released on bail in connection with C.R. No.75 of 2023 registered with the Adgaon Police Station, District - Nashik 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 Adgaon Police Station, District - Nashik once in a month i.e. on the first Sunday of every month 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 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.]