

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

BAIL APPLICATION NO.2173 OF 2024

Soham Sanjay Shelke

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Prashant P. Raul a/w Mr. Kunal Patil, Mr. Mayur G. Sanap, for the Applicant.

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

P.S.I. J. A. Jadhav, Karveer Police Station, District – Kolhapur, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 14 AUGUST 2024

P.C.:

1. Heard Mr. Raul, 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.	38 of 2023
2	Date of registration of F.I.R.	19/01/2023
3	Name of Police Station	Karveer, District – Kolhapur
4	Section/s invoked	302 r/w 34 of the <i>I.P.C., 1860</i>
5	Date of incident	18/01/2023-19/01/2023
6	Date of arrest	20/01/2023
7	Date of filing Charge-sheet	18/04/2023

3. As per the prosecution case, the Accused No.2–Atharva Sanjay Haval and the Deceased–Rushikesh Mahadev Suryavanshi were working in a video game parlour which is owned by Tushar Taralekar. Said Tushar Taralekar informed Accused No.2–Atharva that he should not come to work anymore as according to said Tushar Taralekar, said Atharva was showing about 50 to 100 Rupees less in the daily accounts at the parlour.

4. Accused No.2–Atharva Haval was under the impression that it was the deceased Rushikesh who told the owner Tushar Taralekar about the mismatch in accounts. Therefore, Accused No.2 along with other Accused entered into conspiracy. Therefore the said Rushikesh was taken to a distant place by all the Accused. All of them consumed liquor and thereafter all the Accused assaulted said Rushikesh with a knife. There are a total of 4 Accused. Accused No.1 is Ganesh Lingappa Yalgatti, Accused No.2 is Atharva Sanjay Haval, Accuse No.3 is Soham Sanjay Shelke i.e. present Applicant and Accused No.4 is Rishabh Vijay Salokhe who has been released on bail by this Court by Order dated 15th March 2024 passed in Bail Application No.3534 of 2023.

5. It is the contention of Mr. Raul, learned Counsel for the Applicant that the case is of circumstantial evidence and except extra-judicial confession by Accused No.1 there is no other evidence to prove the case of prosecution. The applicant is neither named in the F.I.R. nor any role

has been attributed against him in order to show his involvement in the alleged offence. Nothing incriminating has been recovered from the present Applicant. He submitted that statement of witness – Hrishikesh Arun Nimbalkar (Page No.230) recorded by the Police on 19th January 2023 which clearly shows that the Applicant is not involved in the crime. He submitted that the Applicant was arrested merely on the suspicion that he might be involved in the alleged offence as he is a friend of Accused No.1 and Accused No.4. He submitted that there is no incriminating material against the present Applicant. He submitted that there are no antecedents against the present Applicant.

6. On the other hand, Ms. Newton, learned APP submitted that although the case is of circumstantial evidence, all the Accused have committed murder of the deceased with pre-planning. She submitted that there is a strong motive as the Accused No.2 had been removed from the service as the deceased had informed the owner that Accused No.2 Atharva Haval was not giving proper account of earnings at the said parlour. On instructions, she submitted that there are no antecedents against the Applicant.

7. Perusal of the record shows that the incident in question has taken place between 18th January 2023 to 19th January 2023. F.I.R. was lodged on 19th January 2023 and the Applicant was arrested on 20th January 2023. It is an admitted position that investigation has

been completed and Charge-sheet has been filed on 18th April 2023. As per the Charge-sheet, there are a total of 56 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

8. *Prima facie* there is substance in the contention raised by learned Counsel for the Applicant that the case is of circumstantial evidence and except extra-judicial confession by Accused No.1 there is nothing to implicate the present Applicant.

9. The Applicant does not have any criminal antecedents.

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

11. The Applicant is very young of 21 years.

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

13. In view thereof, the following order:-

ORDER

- (a) The Applicant – Soham Sanjay Shelke be released on bail in connection with C.R. No.38 of 2023 registered with the Karveer Police Station, District–Kolhapur on his furnishing PR. Bond of Rs.25,000/- with one or two 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 Karveer Police Station, District-Kolhapur once in a week i.e. on every Sunday between 2:00 p.m. and 4:00 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 Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]