

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

CRIMINAL BAIL APPLICATION NO. 2288 OF 2024

Santosh @ Nandu Shankar Salve	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
INTERIM APPLICATION NO. 2419 OF 2024**

Sudhakar @ Vishal Yashwant Varule	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

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Mr. Aabad Ponda, Senior Advocate a/w Mr. Nitin Karhale i/by Mr. Jaywant Avhad, Advocate for the Applicant in BA/2288/2024.

Mr. Ravi Asabe i/by Mr. Akshay Bankapur, Advocate for Intervenor.

Mr. Shahaji Shinde, Spl. PP. a/w Ms. Supriya Kak, APP for the Respondent – State.

Mr. Shridhar Netaware, PSI, Dindori Police Station, Nashik, present.

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CORAM	:	ANIL S. KILOR, J.
DATE	:	23rd JULY, 2024.

P.C.:

1. Leave to amend the title clause. Amendment may be carried out forthwith.

2. By this application under Section 439 of the Code of Criminal Procedure, the Applicant is seeking bail in Crime No.599 of 2023, registered with Dindori Police Station, District: Nashik (Rural) for the offences punishable under Sections 307, 341, 201

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r/w 34 of Indian Penal Code (for short 'IPC') and Sections 4 r/w 25 of Arms Act, 1959.

3. Mr. Ponda, Senior Advocate appearing for the Applicant points out that the incident is dated 24th November, 2023 and report was lodged on 4th December, 2023. He further points out that in the injury certificate issued by the private hospital Sanjeevani, in the history column it is stated that the assault was made by the unknown persons and further in the discharge summary is mentioned that five persons assaulted the complainant by using iron rod and sickle.

4. It is further submitted that nothing has come on record to point out that after ten days of incident i.e. on the date of lodgment of the FIR what was the source of information for the Applicant to know the names of the Accused persons. He therefore submits that version of the prosecution is doubtful. He accordingly prays for grant of bail.

5. On the other hand, learned APP strongly opposed the application and submits that as the complainant was in hospital from 24th November, 2023 till 3rd December, 2023, the FIR could not be lodged. However, on discharge from the hospital, immediately on the next day the complaint was lodged. She further submits that the delay in lodging FIR is not material in this matter.

She further points out that the Accused are the known persons and therefore, the names were stated in the FIR.

6. Learned Advocate for the Intervenor reiterates the submissions of the learned APP and prays for rejection of the bail application.

7. Having considered the injury certificate, discharge card of the hospital and other material available on record, it is evident that while admitting in the hospital, it was recorded that attack was made by the unknown persons on the complainant by using weapons namely iron rod, sickle. Similar entry can be found in the discharge summary. In the discharge summary there is mentioned that five unknown persons assaulted the complainant using iron rod and sickle. It is further important to note that there is a request made by the Applicant on 30th November, 2023 for discharging him for lodging a criminal report with the Police. However, despite the same, why such report was not lodged, no explanation has come forth.

8. In the circumstance, naming the Accused person first time after about ten days in the FIR creates doubt about the veracity of the prosecution story. Moreover, since the Applicant was arrested on 4th December, 2023 and since then he is in jail. In the circumstances, I am of the opinion that the further custody of the

Applicant is not necessary. Accordingly, the application is allowed.

ORDER

- i. Criminal Bail Application No.2288 of 2024 is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No.599 of 2023, registered with Dindori Police Station, District: Nashik (Rural) for the offences punishable under Sections 307, 341, 201 r/w 34 of IPC and Sections 4 r/w 25 of Arms Act, 1959, on furnishing PR. Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;
- iii. The Applicant shall not enter within the territorial jurisdiction of Dindori Police Station, District : Nashik (Rural) till conclusion of trial except for attending trial;
- iv. The Applicant shall provide his address as well as the name of the near by Police Station to the Investigating Officer which he shall attend on 1st and 16th day of each month between 10:00 am to 11:00 am till conclusion of trial except for attending trial;
- v. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- vi. Liberty is granted to the State for cancellation of bail if

the Applicant commits similar offence;

vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

viii. Application stands disposed off, accordingly.

ix. In view of above, interim application also stands disposed off.

(ANIL S. KILOR, J.)