

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2492 OF 2024

Ashish Dnyaneshwar Ambekar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Vagal a/w Ms. Savvy Kolhekar & Mr. Kunal N. Pednekar, for
the Applicant.

Ms. Savita M. Yadav, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED: 15 JULY 2024

P.C.:

1. Heard Mr. Vagal, learned Counsel for the Applicant and Ms. Yadav, 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.	226 of 2022
2	Date of registration of F.I.R.	17/11/2022
3	Name of Police Station	Gangapur, District-Nashik
4	Section/s in F.I.R.	302 of the <i>I.P.C., 1860</i>
5	Section/s in Charge-sheet	302, 143 & 149 of <i>I.P.C., 1860</i>
5	Date of incident	09/11/2022
6	Date of arrest	01/12/2022
7	Date of filing Charge-sheet	07/02/2023

3. As per the prosecution case, the Accused No.1, the deceased and other Accused persons were involved in the scrap business. There was some dispute regarding distribution of money between all the accused persons and the deceased. Therefore, Accused No.1 was of the opinion that the deceased should be killed. The Accused No.1 therefore called other accused persons and the deceased at Goda Park at Nashik and they all consumed liquor over there. The role attributed to the present Applicant is that he brought the deceased to the spot and at the relevant time, the present Applicant i.e. Accused No.5 along with the Accused Nos.2, 3, and 4 were keeping a watch on the road and at that time Accused No.1 and one unknown person killed the deceased by throttling him and his body was thrown in the river.

4. Mr. Vagal, learned Counsel for the Applicant submitted that the case is of circumstantial evidence. There are no incriminating circumstances against the Applicant. In any case, he submitted that the only role attributed to the present Applicant is that he brought the deceased to the spot. He submitted that as per the prosecution case, Accused No.1 and one unknown person had participated in the assault on the deceased. He submitted that the incident in question took place on 9th November 2022 and the Accused No.1 died by suicide on 13th November 2022. He submitted that there are no antecedents against the Applicant.

5. On the other hand, Ms. Yadav, learned APP points out various statements of witnesses and submitted that the deceased was killed as a result of a conspiracy hatched by all the accused persons and that the Applicant has actively participated in the said conspiracy. She submitted that the Applicant brought the deceased at the place of the incident. She therefore submitted that the Applicant was actively involved in the incident in question and hence prayed that the Bail Application be rejected. On instructions, she submitted that there are no antecedents.

6. Perusal of the record shows that the incident in question took place on 9th November 2022. F.I.R. was lodged on 17th November 2022 and the Applicant was arrested on 1st December 2022. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 7th February 2023. As per the Charge-sheet, there are a total of 38 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the charge is also not framed yet. The trial is likely to take a considerably long time.

7. The case is of circumstantial evidence. *Prima facie* there is substance in the contention raised by learned Counsel for the Applicant that the Applicant has not participated in the actual assault on the deceased.

8. The Applicant is a young man aged 23 years.

9. The Applicant does not have any criminal antecedents.

- 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-Ashish Dnyaneshwar Ambekar be released on bail in connection with C.R. No.226 of 2022 registered with the Gangapur Police Station, District-Nashik on his furnishing P.R. Bond of Rs.25,000/-each 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 Gangapur Police Station, District-Nashik once every 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.

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.]