

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2579 OF 2024

Mahesh Raju Yamgavali .Applicant

Versus

The State of Maharashtra .Respondent

WITH
INTERIM APPLICATION NO. 2718 OF 2024
IN
BAIL APPLICATION NO. 2579 OF 2024

Sachin Anil Patangrao .Intervenor

IN THE MATTER BETWEEN

Mahesh Raju Yamgavali .Applicant

Versus

The State of Maharashtra .Respondent

Mr. Vikrant V. Phatate a/w. Mr. Mahesh S. Arjun, Advocates, for the Applicant

Ms. S. M. Yadav, APP, for the Respondent – State

Mr. Kanhaiya S. Yadav, Advocate, for the Intervenor

CORAM : MADHAV J. JAMDAR, J.

DATED : AUGUST 6, 2024

P. C.

1. Heard Mr. Phatate, learned Counsel for the Applicant, Ms. Yadav, learned APP for the Respondent – State and Mr. Kanhaiya

Yadav, learned Counsel for the Intervenor.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The Applicant is Accused No.2. The relevant details are as follows:-

1	C.R. No.	55 of 2023
2	Date of registration of F.I.R.	05/02/2023
3	Name of Police Station	M.I.D.C., District-Solapur
4	Section/s invoked in F.I.R.	302, 143, 147, 148 & 149 of the <i>I.P.C., 1860</i>
5	Date of incident	04/02/2023
6	Date of arrest	08/02/2023
7	Date of filing Charge-sheet	03/05/2023
8	Section/s applied in Charge-sheet	302, 120-B & 201 r/w 34 of the <i>I.P.C., 1860</i> ; 4 & 25 of the <i>Arms Act, 1959</i> .

3. Mr. Phatate, learned Counsel for the Applicant submitted that the Applicant has been incarcerated since 8th February 2023. He submitted that there are in all 6 Accused and one child in conflict with law. He submitted that as far as 6 Accused are concerned, 2 Accused have been released on anticipatory bail and 3 Accused have been released on regular bail. He states that the Applicant is the only Accused, who is still incarcerated. He submitted that except recovery panchanama, which is on Page Nos. 72 to 74, there is no other evidence on record. He states that as per said recovery panchanama, there is recovery of a Sword at

the instance of the Applicant. He states that recovery is from the open space and recovery is after a period of five days after arrest of the Applicant. He submitted that the Applicant is young person of 21 years and is a student. He submitted that there are no antecedents and therefore, the Bail Application be allowed.

4. On the other hand, Ms. Yadav, learned APP for the Respondent – State and Mr. Kanhaiya Yadav, learned Counsel for the Intervenor strongly opposed the Bail Application. Both of them submitted that there are two eye witnesses to the incident. They pointed out the statements of said two eye witnesses i.e. Reshma Ranjitsingh Hajariwale (Page No. 127) and Surekha Laxman Gungewale (Page No. 128). Both of them submitted that therefore, the Bail Application be rejected. Mr. Yadav, learned Counsel submitted that during investigation, the Identification Parade is not yet conducted and therefore the Bail Application be rejected.

5. Perusal of the record shows that the incident in question has taken place on 04.02.2023 at 10.30 p. m.. FIR was registered on 05.02.2023. The Applicant was arrested on 05.02.2023. Charge-sheet was filed on 13.05.2023. As per the charge-sheet, there are in all 30 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.

6. This is a case where Accused No. 1 has been granted bail by a learned Single Judge by Order dated 19.12.2023 in B. A. No. 4023 of 2023. Accused No. 2 has been granted bail by this Court by Order dated 03.05.2024 in B. A. No. 271 of 2024. Accused No. 3 has been granted bail by this Court by Order dated 05.02.2024 in B. A. No. 2079 of 2023. Accused No. 6 has been granted anticipatory bail by a learned Single Judge by Order dated 05.10.2023 in ABA No. 2374 of 2023. Accused No. 7 has been granted anticipatory bail by a learned Single Judge by Order dated 12.01.2024 in ABA No. 80 of 2024. Thus, all the Accused, except the present Applicant, have been released on bail. Therefore, parity is applicable to the present Applicant.

7. The Applicant has no antecedents.

8. Mr. Phatate, learned Counsel for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within the limits of Solapur City and also shall not enter the jurisdiction of the M.I.D.C. Police Station, Solapur. He states that the Applicant will therefore reside at Village – Sangdari, Taluka – South Solapur, District – Solapur.

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 - Mahesh Raju Yamgavali be released on bail in connection with C.R. No.55 of 2023 registered with the M.I.D.C. Police Station, District-Solapur on his furnishing P. R. Bond of Rs.25000/- with one or two solvent sureties in the like amount;
- (b) The Applicant shall not enter the Municipal limits of Solapur City and the jurisdiction of the M.I.D.C. Police Station, Solapur after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial;
- (c) On being released on bail, the Applicant shall furnish his Cell phone number and residential address i. e. outside the limits of Municipal limits of Solapur City and also the jurisdiction of the M.I.D.C. Police Station, to the Investigating Officer and shall keep the same updated, in case of any change thereto;
- (d) The Applicant shall report to the Solapur Taluka Police Station, District-Solapur once every week i. e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Solapur Taluka Police Station, District-Solapur to communicate details thereof to the Investigating Officer;
- (e) 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;

- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witnesses in any manner;
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat;
- (h) 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 and uninfluenced by the *prima facie* observations made in this Order.

14. In view of disposal of the Bail Application, the Interim Application, being I. A. No. 2718 of 2024 does not survive and the same stands disposed of accordingly.

[MADHAV J. JAMDAR, J.]