

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

BAIL APPLICATION NO.2607 OF 2024

Amit *alias* Datta Vishnu Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Sana Raees Khan, for the Applicant.

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

A.P.I. Kishor Pawar, Lonikalbhor Police Station, District–Pune, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 14 AUGUST 2024

P.C.:

1. Heard Ms. Khan, 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.	52 of 2021
2	Date of registration of F.I.R.	27/01/2021
3	Name of Police Station	Lonikalbhor, District–Pune
4	Section/s invoked	302, 506 r/w 34 of the <i>I.P.C., 1860</i> ; 4 & 25 of the <i>Arms Act, 1959</i> .
5	Date of incident	27/01/2021
6	Date of arrest	29/01/2021
7	Date of filing Charge-sheet	April 2021

3. The Respondent – State of Maharashtra has opposed this Bail Application by filing Affidavit dated 31st July 2024 of Mr. Vishnu M.

Deshmukh, Police Sub Inspector, presently attached to Lonikalbhor Police Station, Pune City, District – Pune. The prosecution case is set out in Paragraph No.3 of the said Affidavit. The said Paragraph No.3 is reproduced herein below for ready reference:

“3. *I say that prosecution story in short is as under :-*

(a) That Orig. Complainant/Informant namely Shubham Bapu Pawar, lodged FIR on 27.01.2021 inter alia stating therein that on 27/01/2021 at around 12:00 PM, while he and his friend namely Tushar Khandu Chavan were having tea at his owned Hindvi Snacks Center within the limits of Mauje Vadki Village, at that time, Amol alias Pappya Vishnu Jadhav, Kalidas alias Sagar Malhari Jadhav, Amit alias Datta Vishnu Jadhav all Residing at Gaydara Vadki Tal. Haveli, District Pune and an unknown person, whose name and address is unknown, due to an old domestic dispute, came to orig. complainant's/informant's Vadapav car on two motor cycles viz. Passion and Pulsar, one of them held the orig. complainant/informant from behind and put a knife on his stomach and said that, “you should not move, otherwise I will kill you.” And thereafter the said Sagar pushed the said Tushar from the chair, as a result of which said Tushar fell down alongwith chair and thereafter the said Amit alias Datta Vishnu Jadhav (present Applicant/Accused hereinabove) inflicted blows of knife in the stomach of said Tushar and at that point of time, said Amol inflicted blows of sickle, said Sagar inflicted blows of iron rod and thereafter Amit alias Datta Vishnu Jadhav (present Applicant/Accused hereinabove) gave blows on stomach of the present Applicant/Accused hereinabove and thereafter all of them with the help of aforesaid motor cycles i.e. Passion and Pulser ran away from the spot of incident towards Pune direction. It is further case of the orig. complainant/informant that thereafter the brother of said injured namely Kiran Chavan came on the spot of incident and thereafter the Orig. Complainant/Informant and said Kiran took the injured in a

vehicle i.e. I 20 Car bearing Registration No.MH-14-CK-2898 at Sahyadri Hospital, Hadapsar, Pune wherein the doctors declared the said Tushar as dead before admission in the said hospital.

(b) On the basis of complaint lodged by the Orig. Complainant/informant, on 27.01.2021, offence vide CR No.52/2021 u/secs.302, 506, 34 of Indian Penal Code and u/s. 4(25) of Arms came to be registered with Loni Kalbhor Police Station, Pune City, Dist.: Pune against (1) Amol @ Pappya Vishnu Jadhav, (2) Kalidas @ Sagar Malhari Jadhav, (3) Amit @ Datta Vishnu Jadhav (present Applicant/Accused hereinabove) and one unknown person and investigation was commenced and it was assigned to Mr. S. S. Lokhande, Asst. Police Inspector, attached to Loni Kalbhor Police Station, Pune Rural, Dist.: Pune and thereafter, the investigation was assigned to Mr. Pramod Hambir, Police Sub Inspector, attached to Loni Kalbhor Police Station, Dist.: Pune who conducted remaining investigation and after completion of investigation, he filed the charge sheet.”

4. At the outset, Ms. Khan, learned Counsel for the Applicant states that although the Applicant is having good case on merits for bail, however, the Applicant is seeking bail only on the ground of long incarceration. She states that the incident in question is dated 27th January 2021, F.I.R. was lodged on the same day i.e. 27th January 2021 and the Applicant was arrested on 29th January 2021. She submits that the Applicant is behind bar for about 3 years and 8 months. She states that there is no progress in the trial and even the Charge is also not framed. She submits that there are in all 4 Accused, out of which 2 Accused have already been enlarged on bail. She states that there are

no antecedents against the Applicant.

5. On the other hand, Ms. Newton, learned APP strongly opposed the Bail Application. She submitted that there are eye-witnesses to the incident in question. She submitted that the deceased was brutally assaulted in the incident and the Applicant had assaulted the deceased with an iron rod. She pointed out the Post-Mortem Examination Report, which shows that the deceased was brutally assaulted and there are 19 injuries. On instructions, she states that there no antecedents against the Applicant.

6. Perusal of the record shows that the incident in question took place on 27th January 2021, F.I.R. was lodged on the same day i.e. 27th January 2021 and the Applicant was arrested on 29th January 2021. It is an admitted position that investigation is completed and that the Charge-sheet has been filed in April 2021. Till date, there is no progress in the trial and even the Charge is also not framed. As per the Charge-sheet, there are 35 witnesses proposed to be examined by the prosecution. Accordingly, the trial will take a considerably long time to conclude.

7. The Applicant is incarcerated since 3 years and 8 months. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article

21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail.

8. Perusal of the record shows that out of 4 Accused, 2 Accused have already been enlarged on bail. Accused No.4–Mangesh Balasaheb Chavan has been granted bail by this Court by Order dated 19th March 2024 passed in Bail Application No.2288 of 2023. Accused No.3–Kalidas *alia* Sagar Malhar Jadhav has been released on bail by a learned Single Judge by Order dated 9th May 2024 passed in Bail Application No.1494 of 2024.

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 – Amit *alias* Datta Vishnu Jadhav be released on bail in connection with C.R. No.52 of 2021 registered with the Lonikalbhor Police Station, District–Pune 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

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

Officer and shall keep the same updated, in case of any change thereto.

- (c) The Applicant shall report to the Lonikalbhor Police Station, District–Pune once in a week i.e. on every Sunday 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.

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.]