

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

BAIL APPLICATION NO. 2620 OF 2024

Swami Vanesh Pardeshi

.Applicant

Versus

The State of Maharashtra

.Respondent

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

Mr. S. S. Chaudhari, APP, for the Respondent – State.

Mr. Nitin Gaware-Patil i/b. Mr. Sachin Thorat & Mr. Yogesh Thorat,
Advocates, for the Intervenor.

Mr. Mahesh Patil, PSI, Jejuri Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 18.07.2024

P. C.

1. Heard Mr. Pednekar, learned Counsel for the Applicant, Mr. Chaudhari, learned APP for the Respondent-State and Mr. Gaware-Patil, learned Counsel for the Intervenor.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:

1.	C.R. No.	301 of 2023
2.	Date of registration of F.I.R.	08.07.2023
3.	Name of Police Station	Jejuri, District – Pune
4.	Section/s invoked	302, 307, 324, 143, 147, 148, 149, 504 and 506 of IPC, 1860.
5.	Date of incident	07.07.2023
6.	Date of arrest	08.07.2023
7.	Date of filing of Charge-sheet	08.10.2023

3. As per the prosecution case, there is a land dispute going on between the family of the deceased and of the Applicant. There is an injunction obtained by the family of the deceased by filing a Civil Suit directing the Applicant and his family members shall not enter the suit property. It appears that when the incident took place, the Applicant and his family members entered the suit property. Same was informed by somebody to the family of the Deceased. Therefore, family members of the Deceased along with the Deceased came there. A quarrel took place between these two families. There are in all five accused. All the accused except accused No.5 are the family members. The present Applicant is accused No.3. As per the prosecution case, the present Applicant assaulted the deceased with an Axe on the head and neck.

4. It is the submission of Mr. Pednekar, learned counsel for the Applicant that the Applicant is 19 years old. He states that there are no other antecedents. He states that there exists a land dispute between these two families for last several years. He submitted that the role assigned to the present Applicant is that of assault with an Axe on the head and neck of the Deceased. However, he submits that eye-witnesses – Sagar Bhagwan Khomane (Page No.163), Naushad Firoz Pansare (Page No.165) and Jamir Ismail Shaikh (Page No.167) have stated that the present Applicant instigated other accused to commit the offence in question and he threw stones at the deceased. He submits that investigation is complete and the charge-sheet has

been filed. He therefore submitted that the Bail Application be granted.

5. On the other hand, Mr. Chaudhari, learned APP for the Respondent – State and Mr. Gaware-Patil, learned Counsel for the Intervenor submitted that there are two eye witnesses namely Raju Firoz Pansare (Page No. 25) and Sajid Unus Mulani (Page No. 161) have specifically stated that the present Applicant had assaulted the deceased with an Axe on the head and neck of the deceased. Both of them submitted that thus, the main role is attributed to the present Applicant and therefore the Bail Application be rejected. Both of them also submitted that these witnesses in their Section 164 CrPC statements have also stated the same. It is also submitted that one witness who has stated in the statement recorded by the Police that the Applicant had only thrown the stones in the statement recorded under Section 164 of the CrPC has stated that the Applicant assaulted the Deceased with an axe. Mr. Chaudhari, learned APP, on instructions, states that there are no antecedents.

6. Perusal of the record shows that the incident in question took place on 07.07.2023. The FIR was registered on 08.07.2023. The Applicant was arrested on 08.07.2023. Charge-sheet was filed on 08.10.2023. As per the charge-sheet, there are in all 30 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even charge is also not framed.

7. There is a substance in the contention raised by the learned

APP and learned Counsel for the Intervenor that there are two eye witnesses to the incident who have stated that the Applicant had assaulted the deceased with an Axe. However, it is also to be noted that other eye-witness namely Sajid Unus Mulani (Page No. 161) even in his statement recorded under Section 164 of the CrPC stated that the Applicant is only involved in instigating others and he had assaulted the Deceased with stones. Other eye-witnesses namely Sagar Bhagwan Khomane (Page No. 163), Naushad Firoz Pansare (Page No. 165) and Jamir Ismail Shaikh (Page No. 167) have also in their statements recorded by Police stated that the Applicant is only involved in the assault with stones. In any case, there is variance in the statements of the eye-witnesses.

8. The Applicant is a young person aged 19 years.

9. Mr. Pednekar, learned Counsel for the Applicant states that as several witnesses are residents of Jejuri, District – Pune, the Applicant will therefore not reside within District - Pune and that the Applicant will reside at 106, 1st floor, Sai Anant Avenue CHS, Sector 16E, Roadpali, Kalamboli, Navi Mumbai – 410 218 and will attend the Kalamboli Police Station, Kalamboli, Navi Mumbai.

10. The Applicant has no antecedents.

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

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

13. In view thereof, the following order:

ORDER

(a) The Applicant - Mr. Swami Vanesh Pardeshi be released on bail in connection with C.R. No.301 of 2023 registered with the Jejuri Police Station, District – Pune on her furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter the District – Pune 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 to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Kalamboli Police Station, District – Raigad on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Kalamboli Police Station, District – Raigad 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 witness 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.

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.]