

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2717 OF 2024

Masanna Dhondiba Gaikwad	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Ritesh M. Thobde a/w. Ms. Zubi Ansari and Mr. Changdev S.,
Advocates, for the Applicant.
Ms. Savita M. Yadav, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 22nd JULY 2024

PC:-

1. Heard Mr. Thobde, 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.	275 of 2021
2.	Date of registration of F.I.R.	13 th June 2021
3.	Name of Police Station	Akkalkot North, District-Solapur
4.	Section/s invoked	302, 326, 324, 323, 427, 504, 506, 146, 147, 148, 149 of the Indian Penal Code, 1860 and 3 and 25 of the Arms Act, 1959.

5.	Date of incident	12 th June 2021
6.	Date of arrest	13 th June 2021
7.	Date of filing of Charge-sheet	13 th September 2021

3. As per the prosecution case, on 12th June 2021 at about 17:30 hours, the Informant along with deceased Vishwanath Patil and others were travelling in a Swift vehicle. Upon reaching the house of co-Accused Chandrakant Masanna Gaikwad, there was a verbal altercation between them. It is alleged that the Accused No.1-Chandrakant then gave a call to other Accused viz. 2. Dhondiba Masanna Gaikwad, 3. Masanna Dhondiba Gaikwad, 4. Ambadas Shankar Koli, 5. Ningappa Shankar Koli, 6. Suraykant Shankar Koli, 7. Balbhim Shankar Koli all residents of Mamdabad, Taluka Akkalkot. The Accused persons arrived there and all of them assaulted the Informant and others. In the said assault Vishwanath Patil died.

4. It is the submission of Mr. Thobde, learned Counsel appearing for the Applicant that the Applicant was arrested on 13th June 2021. He submitted that when the incident in question took place the Applicant was aged 60 years and presently the Applicant

is aged 63 years. He submitted that there are cross complaint. It is the submission of Mr. Thobde, learned Counsel appearing for the Applicant that the Informant, deceased-Vishwanath Patil and others were travelling in Swift vehicle and they had come at the house of the Accused-Chandrakant Masanna Gaikwad i.e. son of the present Applicant. He submitted that as per the Post-Mortem report death was caused due to head injury. He submitted that even as per the prosecution case, the Applicant has assaulted the deceased on his backside. He therefore, submitted that as the head injury of the deceased is not attributed to the present Applicant and there are no criminal antecedents against the Applicant, he be released on bail.

5. On the other hand, Ms. Yadav, learned APP for the Respondent-State strongly opposed the Bail Application. She submitted that the Applicant used a sword in the incident in question. She submitted that the main role is attributed to the present Applicant and therefore, the Bail Application be rejected.

6. Perusal of the record shows that in the present case, the incident in question occurred on 12th June 2021, F.I.R. was lodged

on 13th June 2021, the Applicant was arrested on 13th June 2021 and, the Charge-sheet was filed on 13th September 2021. Except for framing of the charge, there is no progress in the trial. The Applicant is a senior citizen aged 63 years.

7. *Prima facie*, there is substance in the contention raised by learned Counsel appearing for the Applicant that even as per the prosecution case, head injury is not attributed to the present Applicant. There are no criminal antecedents against the present Applicant.

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

9. There are total 7 Accused persons, out of which 5 have been released on bail. Accused No.4 has been granted bail by a learned Single Judge (Coram: R.N. Laddha, J.) by Order dated 16th December 2022, Accused Nos.5 and 7 have been granted bail by a learned Single Judge (Coram: N.R. Borkar, J.) by Order dated 11th November 2022 and Accused No.6 has been granted bail by a learned Single Judge (Coram: Smt. Anuja Prabhudessai, J.) by Order dated 21st April 2023. This Court has granted bail to

Accused No.2-Dhondiba Masanna Gaikwad by Order dated 29th January 2024 passed in Bail Application No.2134 of 2023. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

10. In view thereof, the following order:-

ORDER

- (a) The Applicant - Masanna Dhondiba Gaikwad be released on bail in connection with C.R. No.275 of 2021 registered with the Akkalkot North Police Station, District – Solapur (Rural) on his furnishing P.R. Bond of Rs.25,000/- with one or two 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 Akkalkot North Police Station, District – Solapur (Rural) once every week, on every Sunday between 11:00 a.m. and 1:00 p.m. till 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.

11. The Bail Application is disposed of accordingly.

12. 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.]