IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2946 OF 2024

Shivraj Kishorprasad Singh .Applicant

Versus

The State of Maharashtra .Respondent

Mr. Nagesh S. Khedkar, Advocate, for the Applicant
Ms. R. V. Newton, APP, for the Respondent – State
Mr. R. A. Yadav, API, Sinhgad Road Police Station, Pune City present

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CORAM : MADHAV J. JAMDAR, J.

DATE : 11.09.2024

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1. Heard Mr. Khedkar, learned Counsel for the Applicant and Ms. Newton, learned APP for the Respondent-State.

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

1.	C.R. No.	428 of 2022
2.	Date of registration of F.I.R.	01.10.2022
3.	Name of Police Station	Sinhgad Road, Pune City
4.	Sections invoked	302, 143, 147, 149, 144 & 145 of the I.P.C., 1860
5.	Date of incident	30.09.2022
6.	Date of arrest	02.10.2022
7.	Date of filing of Charge-sheet	29.12.2022

3. As per the prosecution case, the deceased had borrowed money from several persons. On 02.10.2022, the deceased was at the residence of one Vanita Kurdekar. At that time, Sameer Kurdekar-husband of Vanita, and daughter of Vanita were also there. As per the prosecution case, there are in all 5 named Accused and 1 unknown Accused. The Accused came to know that the deceased was in the house of Vanita. Therefore, initially, Accused No.2 came at the said house and started assaulting the deceased with fist blows on the ground that he had borrowed money from him but not refunded back the same. Later on, other Accused came there and assaulted the deceased, as the deceased had also borrowed money from them. Thereafter, all of them came outside the said society and again started assaulting the deceased. The deceased succumbed to the resultant injuries.

4. It is the contention of Mr. Khedkar, learned Counsel for the Applicant that the incident in question has taken place on the spur of the moment. He submitted that the deceased was responsible for duping several people. He submitted that as all the Accused came to know that he was at the residence of Vanita Kurdekar, they came there and started demanding money. He submitted that, as all the Accused

were duped for various amounts and as the deceased was not returning back the same, the Applicant and other Accused suddenly assaulted the deceased with fist blows. He submitted that the incident is not premeditated as no weapon has been used. He submitted that there is one antecedent i.e. C. R. No. 226 of 2013 registered with the Shirur Police Station, Pune (Rural) for the offences punishable u/sec. 354, 452, 323, 504 & 506 of the *Indian Penal Code, 1860* ("IPC").

5. On the other hand, Ms. Newton, learned APP vehemently opposed the Bail Application. She submitted that there are eye-witnesses to the incident namely Vanita Kurdekar, her husband as well as three security guards. She submitted that although it is the contention of all Accused that the deceased had duped various persons including the Accused, however, action could have been taken against the deceased as per the provisions of law. Therefore, she submitted that this is not a fit case for grant of bail to the Applicant and the Bail Application may be rejected. She also submitted that there is one antecedent against the Applicant.

6. A perusal of the record shows that the incident in question has taken place on 30.09.2022. The F.I.R. was lodged on 01.10.2022. The Applicant was apprehended on 02.10.2022. The Charge-sheet was filed on 29.12.2022. Till date, there is no further progress in the trial and

even the charge is also not framed. As per the Charge-sheet, there are 14 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention raised by Mr. Khedkar, learned Counsel for the Applicant that even if the entire case of the prosecution is accepted as true, the offence punishable under Section 302 of the IPC is not made out. He submitted that the present case falls within the ambit of Section 304(Part II) of the IPC. In any case, it is significant to note that no weapon has been used and even eye-witness has stated that all the Accused had assaulted the deceased with fist blows and stated that they were demanding money.

8. Although there is one antecedent, the same is of the year 2013 i.e. C. R. No. 226 of 2013 registered with the Shirur Police Station, Pune (Rural) for the offences punishable under Sections 354, 452, 323, 504 & 506 of the Indian Penal Code.

9. Mr. Khedkar, 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 District- Pune and that the Applicant will reside at the residence of Mr. Manoj Ramchandra Borade, at post – Eksalgaon, Post – Chincholi, Taluka – Karjat, District – Raigad – 410 201 and will attend the Neral Police

Station, District – Raigad.

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 - Shivraj Kishorprasad Singh be released on bail in connection with C.R. No.428 of 2022 registered with the Sinhgad Road Police Station, Pune City on his furnishing P.R. Bond of Rs.25,000/- with one or two 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 Neral Police Station, District – Raigad, once a week, on Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police

Inspector of Neral Police Station 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.

13. The Bail Application is disposed of accordingly.

14. It is clarified that observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]