

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3139 OF 2024

Sofiyan Firoz Bagwan ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Satyavrat Joshi a/w. Mr. Yash Fadtare and Ms. Reena Prajapati,
Advocates, for the Applicant.
Ms. R. V. Newton, APP, for the Respondent-State.
Ms. Tejaswini Patil, PSI, Sangli City Police Station, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 7th OCTOBER 2024

PC:-

1. Heard Mr. Joshi, learned Counsel appearing for the Applicant and Ms. Newton, learned APP appearing 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.	661/2022
2.	Date of registration of F.I.R.	29/09/2022

3.	Name of Police Station	Sangli City Police Station, Sangli
4.	Section/s invoked	302, 504, 506, 201, 212 r/w. 34 of the Indian Penal Code, 1860.
5.	Date of incident	28/09/2022
6.	Date of arrest	29/09/2022

3. The Respondent-State of Maharashtra has opposed this Bail Application by filing detailed affidavit of Mr. Sagar Somnath Gode, Assistant Police Inspector, presently attached to Sangli City Police Station, District-Sangli dated 10th September 2024. The prosecution case is set out in paragraph No.3 of the said affidavit dated 10th September 2024. The said paragraph No.3 reads as under:

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

(a) That Informant namely Rohit Baburao Angadgiri, lodged FIR on 29.09.2022 inter alia stating therein that on 28.09.2022 at about 5.30 to 6.00 p.m., the informant's brother namely Ajit Baburao Angadgiri worked in farm at near Padmalfata on Mhasoba Mandir to Madhav Nagar Road at that time 03 unknown persons were coming on without number plate on splendor motor cycle for some unknown reason and forced him on the road and stabbed him with sharp weapon on his chest, left side of the waist and backside and

seriously injured him and killed him and threaten to kill farm labour namely Suraj Sharma who was with his brother.

(b) It is the case of the informant that after that, informant and his brother namely Ajit Baburao Angadgiri who was studying in Kasturba Walchand College, Sangli in BA first year and also Associate helps us in business and farm work. At the same time Mr. Ajay Kamble told complainant about quarrel of his brother with his college boys about 2 years ago. Then complainant asked Ajit about that matter he denied on dt. 28.09.2020 around 12.00 PM., Complainant came on his work at that time his brother namely Ajit was at home. He was not going to college for two days and he was feeling tense, hence complainant asked Ajit why he was not going to college. He did not tell him anything. After that, at 2.00 PM. Ajit was sitting on their Panpatti Shop which is near their house, at that time, complainant said him to go to their farm at near Padmalfata on Mhasoba Mandir to Madhav Nagar Road in order to help grant-ma and workers, then he went to farm with farm worker namely Suraj Sharma at 3.00 PM. Around 5.30 PM, complainant on his Panpatti 03 unknown boys age between 18 to 25 were coming on Motor Cycle looking as Chhapri and wested boys. They asked them about Ajju, to which complainant told he was going to Sangli. The boy wearing White Shirt said innocently अज्जू माझा मित्र आहे. तो लई दिवस झाले भेटला नाही. त्याला भेटायचे आहे. So he told him Ajit going to farm at Madhav Nagar Road then these 03 boys were going triple seat. After that complainant called Ajit 3 to 4 times but he neither pick-up his call and nor replied to him. At the same time, at around 6.00 PM informant's namely Balu Mane was coming from his bike and called informant as, "लरोहित तुझा भाऊ माधवनगर रस्त्याला पोरांनी मारले आहे तु लवकर चल ." At that time the informant along with Balu Mane went to Madhav

Nagar Road on that Motor Cycle, where his brother was there at that time, he saw his brother Ajju was laying in the grass on the Road and farm worker namely Suraj Sharma was trying to wake up his brother and grand-ma was sitting crying. His brother's cloth was stained with blood. The road was covered with blood. At that time informant called Akshay Pawar to take his Tamtam Car to Madhav Nagar Road and complainant Suraj Sharma, Vikas Sul together put him and went to Civil Hospital. Then complainant asked to Suraj Sharma about incident who inform that 03 unknown boys coming on modified Splender Motor Cycle without number plate to their farm, two of them come to Ajju on field and they were taking him out then Ajju was a little scared, then Ajju called him, to said his brother but those two boys forcefully took Ajit to the road and they started to kill him with his weapon. Then Ajju was shouted. Ajju was laying in a pool of blood was coming out of his body, then two people sat on the bicycle, and one boy was beating Ajju by threatening as, "तुम माधवनगर रोड पर मिल, तेरा भी ऐसा ही गेम करेंगे". After saying that they took the bicycle and ran away. Then he sat near Ajju and starting lifting him then he was breathing a little bit. After the said incident, the Police came there.

(c) On the basis of the complainant of the informant, offence vide CR No.661/2022 u/secs. 302, 506, 201, 212, 34 of IPC, registered with Sangli City Police Station, Dist. :Sangli on 29.09.2022 against three unknown accused persons and investigation was commenced and it was assigned to Mr. Abhijit Deshmukh, Police Inspector, Sangli City Police Station, Sangli City who conducted investigation till filed charge sheet in the aforesaid offence."

4. Mr. Joshi, learned Counsel appearing for the Applicant submitted that there are total six accused and out of these six accused, three accused persons have been released on bail by the learned Sessions Court. He submitted that as per the prosecution case, Accused No.1-Sujit Rajaram Shinde, Accused No.2-Saurabh Sadashiv Vaghmare and Accused No.3-Sofiyan Firoj Bagwan i.e. the present Applicant have actually participated in the incident in question. He submitted that there are total three eye-witnesses namely Saraswati, Nakusa and Shrikant. However, Saraswati and Nakusa have not identified the Applicant in Test Identification Parade. He submitted that although eye-witness-Shrikant has identified the Applicant, there are contradictions in his statements recorded under Sections 161 and 164 of the Cr.PC. He submitted that the motive has been attributed to the Accused No.1-Sujit Rajaram Shinde as the deceased was harassing the cousin sister of the Accused No.1-Sujit and therefore, the incident in question had occurred. He submitted that the Applicant is young man aged 19 years and he is incarcerated since 29th September 2022. He submitted that there is no progress in the trial and even the charge is also not framed yet. He submitted that as per the prosecution case, there are total 68 witnesses proposed to be examined by the

prosecution. He submitted that there are no criminal antecedents against the Applicant. Therefore, he prayed that the Applicant be released on bail.

5. On the other hand, Ms. Newton, learned APP appearing for the Respondent-State strongly opposed the Bail Application. She pointed out the panchnama regarding C.C.T.V footage (Page 752 to Page 754) and submitted that the Applicant is seen along with the Accused No.1 and Accused No.2 travelling on the motorcycle. She also pointed out the statement of eye-witnesses and more particularly statement of Shrikant, who has identified the Applicant in the Test Identification Parade. She also pointed out the Post Mortem Report (Page 762) and submitted that there are three stab injuries on the body of the deceased. She submitted that there is recovery of knife at the instance of present Applicant. Therefore, she submitted that the Bail Application be rejected.

6. Perusal of the record shows that *prima facie* the Applicant is involved in the offence in question and therefore not entitled to be released on bail on merits.

7. However, perusal of the record also shows that the Applicant has been arrested on 29th September 2022. The Applicant is incarcerated for almost more than two years. Till date there is no progress in the trial and even the charge is also not framed yet. As per the prosecution case, there are total 68 witnesses proposed to be examined by the prosecution. The Applicant is young man aged 19 years. Even as per the prosecution case as found during the investigation the motive was that the deceased was harassing the cousin sister of Accused No.1-Sujit.

8. Mr. Joshi, learned Counsel appearing for the Applicant has relied on the decision of the Supreme Court in case of **Javed Gulam Nabi Shaikh vs. State of Maharashtra & Anr.**¹ He relied on paragraph Nos.8 to 11 and paragraph Nos.18 to 20 of the said decision of the Supreme Court. The said paragraphs are produced herein below for ready reference:

*“8. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. **Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India.***

1 2024 SCC OnLine SC 1693

9. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law that bail is not to be withheld as a punishment.

10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in *Gudikanti Narasimhulu v. Public Prosecutor*, High Court reported in (1978) 1 SCC 240. We quote:

“What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

*“I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that **bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.**”*

11. The same principle has been reiterated by this Court in *Gurbaksh Singh Sibba v. State of Punjab*, (1980) 2 SCC 565 that **the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment.**”

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.”

(Emphasis supplied)

9. As noted earlier the Applicant has been arrested on 29th September 2022. The Applicant is incarcerated for almost more than two years. Till date there is no progress in the trial and even

the charge is also not framed yet. As per the prosecution case, there are total 68 witnesses proposed to be examined by the prosecution. This is a case where there is no likelihood of completion of the trial within a reasonable period.

10. There are no criminal antecedents against the present Applicant.

11. There is some apprehension expressed by Ms. Newton, learned APP that the Applicant may try to influence the witnesses. In view of said apprehension, Mr. Joshi, learned Counsel appearing 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 - Sangli and that the Applicant will reside at C/o. Mahiboob Mahomad Shairf Kamtikar, 287/2, Jodbhavi Peth, Solapur, Maharashtra 413 002.

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

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

14. In view thereof, the following order:-

ORDER

- (a) The Applicant – Sofiyan Firoz Bagwan be released on bail in connection with C.R. No.661 of 2022 registered with the Sangli City Police Station, District - Sangli on his 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 District - Sangli 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 Jodbhavi Peth Police Station, District – Solapur once every week, on every

Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Jodbhavi Peth 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 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.

15. The Bail Application is disposed of accordingly.

16. 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.]

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