

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3165 OF 2024

Rajkumar @ Munna Harihar Nishad	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Aniket Nikam i/b. Mr. Amit Icham, Advocates, for the Applicant.

Mr. C. D. Mali, APP, for the Respondent-State.

Mr. R. R. Pathan, API, Satpur Police Station, Nashik, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 19th DECEMBER 2024

PC:-

1. Heard Mr. Nikam, learned Counsel for the Applicant and Mr. Mali, 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.	11 of 2023
2.	Date of registration of F.I.R.	18 th January 2023
3.	Name of Police Station	Satpur Police Station, Nashik.
4.	Section/s invoked	302 and 34 of the Indian Penal Code, 1860.

5.	Date of incident	17 th January 2023
6.	Date of arrest	18 th January 2023
7.	Date of filing of Charge-sheet	16 th April 2023

3. As per the prosecution case, there was some previous enmity between the Accused No.2-Rajkumar alias Munna Harihar Nishad and cousin brother of the deceased i.e. Lakhankumar Ramdulare. It appears that on account of the said enmity, the Accused No.1 had earlier threatened Lakhankumar.

4. The Applicant is the Accused No.1. The deceased Santoshkumar is the cousin brother of Lakhankumar. As Lakhankumar decided to come to Nashik for work, the deceased had intervened and the said dispute between the Accused No.1 and said Lakhankumar was resolved. Thereafter, when Lakhankumar came to Nashik and when he was walking on road adjacent to the house of Accused No.1, Accused No.1 abused said Lakhankumar and, therefore, some altercations took place between both of them. At that time also the deceased Santoshkumar had intervened and resolved the said dispute.

5. On 17th January 2023 at 10:45 p.m., the informant-Pramodkumar who is also a cousin brother of said Lakhankumar was in the house, heard a commotion and when he came out, he saw both the Accused assaulting Lakhankumar. At that time also cousin Santoshkumar was trying to resolve the dispute. In the said commotion, Accuse No.1 assaulted Santoshkumar on his head with an iron rod and the present Applicant i.e. Accused No.2 assaulted said Santoshkumar with fist blows and kicks and eventually said Santoshkumar succumbed to his injuries.

6. It is the contention of Mr. Nikam, learned Counsel appearing for the Applicant that the Applicant has been arrested on 18th January 2023 and the Charge-sheet has already been filed and there is no progress in the trial. He submitted that the incident took place on the spur of the moment. He submitted that there are no antecedents. He further submitted that most of the witnesses are from Nashik District and if the Applicant is released on bail, he will reside at his brother-in-law's place i.e. C/o. Jagdishprasad Kamalprasad Kewat Rathi, Near Hanuman Nagar, Trimuti Nagar, Tulshetpada, Bhandup (West), Mumbai-400 078.

7. On the other hand, Mr. Mali, learned APP for the Respondent-State strongly opposed the Bail Application by filing affidavit-in-reply dated 18th December 2024 of Mr. Raju Rajjak Pathan, Assistant Police Inspector, Nashik City, Nashik. He pointed out various averments made in the said affidavit-in-reply. He submitted that there are 8 eye-witnesses to the incident. He submitted that statements of 5 eye-witnesses are also recorded under Section 164 of the CrPC. Mr. Mali, learned APP submitted that the Applicant is the main accused. He therefore, submitted that the Bail Application be rejected.

8. A perusal of the record shows that the incident in question occurred on 17th January 2023. The F.I.R. has been lodged on 18th January 2023. The Applicant has been arrested immediately on 18th January 2023 and the Charge-sheet has been filed on 16th April 2023. As per the Charge-sheet there are about 23 witnesses to be examined by the Prosecution.

9. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 16th April 2023. As per the Charge-sheet there are 23 witnesses proposed to be

examined by the prosecution. There is no progress in the trial and even the charge is also not framed. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

10. 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 If the Applicant’s detention is continues, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial. Therefore, the Applicant is entitled for bail.

11. The Applicant does not have any criminal antecedents.

12. Mr. Nikam, learned Counsel appearing for the Applicant states that as several witnesses are residing in the District Nashik, the Applicant will reside at C/o. Jagdishprasad Kamalprasad Kewat Rathi, 5, Near Hanuman Mandir, Trimurti Nagar, Tulshetpada,

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

Bhandup (W), Mumbai-400078. He will not leave Mumbai City without the leave of the learned Trial Court.

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

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

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

16. In view thereof, the following order:-

ORDER

- (a) The Applicant – Rajkumar @ Munna Harihar Nishad be released on bail in connection with C.R. No.11 of 2023 registered with the Satpur Police Station, District - Nashik 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 Nashik City 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 Bhandup Police Station, Mumbai once every week, on every Sunday between 02:00 p.m. and 04:00 p.m. till the conclusion of the trial. The Police Inspector of Bhandup Police Station, Mumbai 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.

17. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]