

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

BAIL APPLICATION NO.3317 OF 2024

Bala *alias* Sudarshan Jagan Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION (ST) NO.19286 OF 2024

IN

BAIL APPLICATION NO.3317 OF 2024

Shri *alias* Monu Sanjay Verma ...Applicant

IN THE MATTER BETWEEN

Bala *alias* Sudarshan Jagan Jadhav ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Kunal N. Pednekar a/w Sanket Bhowad i/b Aniket Vagal, for the Applicant.

Ms. R. V. Newton, APP, for the Respondent—State.

Mr. Chetan S. Damre, for the Informant/Intervenor.

CORAM: MADHAV J. JAMDAR, J.

DATED: 24 SEPTEMBER 2024

P.C.:

1. Heard Mr. Pednekar, learned Counsel for the Applicant, Ms. Newton, learned APP for the Respondent—State, and Mr. Damre, learned Counsel for the Informant/Intervenor.

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.	362 of 2022
2	Date of Registration of F.I.R.	4th December 2022
3	Police Station	Nashik Road, District-Nashik
4	Sections invoked in F.I.R.	307, 504, 324 & 34 of the <i>I.P.C.</i> , 1860
5	Sections applied in Charge-sheet	302, 504 r/w 34 of the <i>I.P.C.</i> , 1860
6	Date of Incident	3rd December 2022
7	Date of Arrest	15th December 2022
8	Date of filing of Charge-sheet	5th March 2023

3. This Bail Application is opposed by the Respondent-State of Maharashtra by filing an Affidavit dated 29th August 2024 of Mr. Badesab I. Naikwade, Police Inspector, presently attached to Nashik Road Police Station, Nashik City, District-Nashik. In the said Affidavit, the prosecution case is set out in Paragraph No.3, which reads as under:-

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

(a) That Orig. Complainant/Informant namely Shri @ Monu Sanjay Verma, lodged FIR on 04.12.2022 inter alia stating therein that on 03/12/2022 at about 11.15 p.m. the first informant and his friend Sameer @ Mustafa Salim Khan Pathan were proceeding on two wheeler i.e. Activa scooter bearing Registration No.MH-15-FK-3446 towards Devlali camp near Saubhagya Nagar and at that time, the alleged assailant accosted them through their four wheeler vehicle i.e. Alto car bearing Registration No.MH-15-BN-4609.

(b) It is the case of the Orig. Complainant/Informant that initially the assailants gave dash to said two wheeler. It is the case of the Orig. Complainant/Informant that thereafter the

assailants had iron sickle with them and Sameer was assaulted. His two right hand fingers were cut off. It is further case of the Orig. Complainant/Informant that while the victim Sameer was running, the said three of them assailant followed him and thereafter assaulted on his head, chest by sickle and there was an attempt to commit murder of said Sameer by the aforesaid three assailants.

(c) It is the case of the Orig. Complainant/Informant that the first informant Shree @ Monu Warma tried to rescued the said quarrel at that time the assailant assaulted to his back by means of reverse side of sickle and caused injury to him.

(d) It is the case of the Orig. Complainant/Informant that the assailant further abused to the victim and thereafter they fled away through their car from the spot of incident. According to the prosecution after the alleged incident the injured victim Sameer Mustafa was initially admitted at Bytco Hospital.

(e) It is the case of the Orig. Complainant/Informant that thereafter, the injured admitted in Jairam Hospital and later on at Sahyadri Hospital and lastly in Vasantrao P Medical Hospital. It is the case of the Orig. Complainant/Informant that the said victim succumbed to injuries on 15/12/2022 at about 02.46 hrs. during the medical treatment.

(f) On the basis of the complaint lodged by the Orig. Complainant, Offence vide CR No.362 of 2022 u/sec. 307, 324, 504, 34 of IPC was registered with Nashik Road Police Station, Nshik City, Dist.: Nashik on 04/12/2022 at about 05.43 hrs. against (1) Bala Jadhav (present Applicant/Accused hereinabove), (2) Dinesh Jadhav, (3) Mayur Bidwe and (4) unknown person and investigation was commenced and it was assigned to Mr. Ramdas B. Vinchu, Police Sub Inspector, attached to Nashik Road Police Station, Nashik City, Dist.: Nashik, who conducted entire investigation and even after completion of investigation, he filed the charge sheet before

the Learned Competent Court.”

4. It is the submission of Mr. Pednekar, learned Counsel for the Applicant that there are a total of 4 Accused. The Accused No.4 has passed away. He submitted that Accused No.2 – Dinesh Jagan Jadhav has been granted bail by this Court by Order dated 24th July 2024 passed in Criminal Bail Application No.3442 of 2023. He submitted that Accused No.3 – Suraj Motiram Shejwal has also been granted bail by this Court by Order dated 4th January 2024 passed in Criminal Bail Application No.4254 of 2023. He submitted that the present Applicant is incarcerated since 15th December 2022. The Applicant is claiming bail on the ground of parity with the Accused No.2 – Dinesh Jagan Jadhav, who has been granted bail by this Court. He submitted that the Charge-sheet has been filed on 5th March 2023 and till date there is no progress in the trial and even the Charge is also not framed.

5. On the other hand, Ms. Newton, learned APP strongly opposed the Bail Application. She pointed out the detailed Affidavit dated 29th August 2024 of Mr. Badesab I. Naikwade, Police Inspector, presently attached to Nashik Road Police Station, Nashik City, District – Nashik. She submitted that the Applicant is involved in a serious offence. She submitted that material on record shows the involvement of the Applicant in the offence

in question. She also submitted that the Applicant has criminal antecedent i.e. C.R. No.354 of 2023 for the offence punishable under Section 135 of the *Maharashtra Police Act, 1951*. She submitted that there is another criminal antecedent being C.R. No.64 of 2010 for the offence punishable under Sections 439, 302, 325 and 34 of the *Indian Penal Code, 1860*, wherein the Applicant has been acquitted. She therefore submitted that the Bail Application be rejected.

6. Mr. Damre, learned Counsel for the Intervenor i.e. Informant submitted that the Applicant is a habitual offender. He submitted that the offence involved in the present case is a very serious offence. He pointed out the Post-Mortem Examination Report dated 15th December 2022 (Page Nos.116 to 125). He pointed out that there are total 43 injuries on the body of the deceased. He therefore submitted that the Bail Application be rejected.

7. Perusal of the record shows that the incident in question took place on 3rd December 2022, F.I.R. was lodged on 4th December 2022 and the Applicant was arrested on 15th December 2022. It is an admitted position that investigation is completed and that the Charge-sheet has been filed on 5th March 2023. Till date, there is no progress in the trial and even the Charge is also not framed. As per the Charge-sheet, there are 38 witnesses proposed to be examined by the prosecution. Accordingly, the trial will

take a considerably long time to conclude.

8. Thus, although the case is made out for grant of bail as there is no possibility of completion of the trial within a reasonable period, however, there is substance in the contentions of Ms. Newton, learned APP and Mr. Damre, learned Counsel for the Intervenor i.e. Informant that material on record clearly shows that the involvement of the Applicant in the crime and there are eye-witnesses to the incident and there is possibility of tampering of the evidence. Thus, strict conditions are required to be imposed on the Applicant.

9. Mr. Pednekar, learned Counsel for the Applicant states that as most of the witnesses including eye-witnesses are residing in Nashik district, the Applicant will therefore not reside in Nashik district and that the Applicant will reside at C/o. Aarti Pravin Kedare, maternal sister of the Applicant, having address A/10, 1st Floor, Saibaba Apartment, Vijay Nagar, Tisgaon, Kalyan (East), Thane, Maharashtra – 421 306.

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 – Bala *alias* Sudarshan Jagan Jadhav be released on bail in connection with C.R. No.362 of 2022 registered with the Nashik Road Police Station, District – Nashik on his furnishing P.R. Bond of Rs.50,000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the Nashik district 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 Kolsheewadi Police Station, Kalyan, District – Thane once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Kolsheewadi Police Station, Kalyan, District – Thane 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 the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

15. In view of disposal of the Bail Application, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]