

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

**BAIL APPLICATION NO. 3355 OF 2024**

Tushar Chandrakant Thorat

.Applicant

*Versus*

The State of Maharashtra

.Respondent

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Mr. Pramod Arjunwadkar i/b. Ms. Prabha Badadare, Advocate, for the Applicant

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

Mr. Satyajeet Amle, P. I., Nashik Taluka Police Station present

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**CORAM : MADHAV J. JAMDAR, J.**

**DATE : 26.08.2024**

**P. C.**

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

2. This is the second Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The first Bail Application was allowed to be withdrawn by Order dated 22.04.2024 (Cri. B. A. No. 1610 of 2024) granting liberty to the Applicant to file a fresh Bail Application after a period of 10 months, if there is no substantial progress in the trial. Mr. Arjunwadkar, learned counsel for the

Applicant states that the present Bail Application is filed before completion of said 10 months period seeking bail on the ground of parity as co-accused – Ram Tukaram Thorat having same role has been granted bail by this Court by Order dated 24.07.2024 passed in Cri. B. A. No. 1313 of 2024.

3. The relevant details are as follows:-

|    |                                |                                                                                                    |
|----|--------------------------------|----------------------------------------------------------------------------------------------------|
| 1. | C. R. No.                      | 169 of 2023                                                                                        |
| 2. | Date of registration of F.I.R. | 19/05/2023                                                                                         |
| 3. | Name of Police Station         | Nashik Taluka Police Station, District-Nashik                                                      |
| 4. | Section/s invoked              | 302, 201, 120(B) r/w. 34 of the I.P.C., 1860<br>37(1)(3), 135 of the Maharashtra Police Act, 1951. |
| 5. | Date of incident               | 18/05/2023                                                                                         |
| 6. | Date of arrest                 | 19/05/2023                                                                                         |
| 7. | Date of filing of Charge-sheet | 17/08/2023                                                                                         |

4. There are total 4 Accused. The Accused No. 3 – Santosh Thorat and Accused No. 4 – Nilesh Thorat have been released on bail by this Court by Order dated 12.02.2024 passed in Cri. B. A. No. 408 of 2024 and Cri.B. A. No. 3432 of 2023. The Accused No. 2 – Ram Tukaram

Thorat has been granted bail by this Court by Order dated 24.07.2024 passed in Cri. B. A. No. 1313 of 2024.

5. Ms. Newton, learned APP has filed an affidavit dated 26.08.2024 of Mr. Satyajeet Shashikant Amale, Police Inspector presently attached to Nashik Taluka Police Station, Nashik. The prosecution case is set out in paragraph Nos. 3(a) and 3(b) of the said affidavit, which reads as under :

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

*(a) That Orig. Complainant/Informant namely Shri Hiranman Kachru Gaikwad, lodged FIR on 19.05.2023 inter alia stating therein that on 18.05.2023 at about 3.00 p.m. to 5.00 p.m. that deceased Bhanudas Gaikwad was using the motorcycle belonging to accused No.1 Tushar Thorat without his permission and thereby accused No.1 Tushar Thorat and applicant took Bhanudas Gaikwad on motorcycle to open space in front of Boat Club of Vilholi Village. Applicant Ram Thorat and accused No.1 Tushar Thorat assaulted Bhanudas Gaikwad with PVC pipe and wooden Stick, other co-accused Santosh Thorat and Nilesch Thorat also came there and assaulted Bhanudas Gaikwad with kick and fist blow.*

*(b) It is the case of the Orig. Complainant/Informant that deceased Bhanudas Gaikwad was seriously injured and become unconscious. After that accused No.1 Tushar Thorat*

*and Applicant Ram Thorat took deceased to civil Hospital in Swift car the present Applicant Ram Thorat give false name as Anand Shinde while taking case paper on submitting case paper to medical officer applicant Ram Thorat and Accused No.1 Tushar Thorat ran away from the hospital Medical Officer declared Bhanudas Gaikwad has died. In the incident applicant and co-accused severely assaulted Bhanudas Gaiwad.”*

(Emphasis added)

6. It is the contention of Mr. Arjunwadkar, learned Counsel appearing for the Applicant that as per the prosecution case, the deceased was using motorcycle belonging to Applicant/Accused No.1- Tushar Thorat without his permission and therefore, the Applicant - Accused No.1-Tushar Thorat and the Accused No. 2 – Ram Thorat took the deceased on the motorcycle to an open space in front of Boat Club of Vilholi village and assaulted him with a PVC pipe and a wooden stick. He submitted that as the deceased has used the Applicant’s motor cycle and just to teach a lesson to the deceased, the deceased was taken to the place of the incident in question and he was assaulted with a PVC pipe and a wooden stick. He submitted that there was no intention to commit the crime as alleged. He further submitted that as the deceased sustained serious injuries, Applicant - Accused No.1- Tushar Thorat and the Accused No. 2 took the deceased and admitted him in the Civil Hospital. He therefore, submitted that if the entire

prosecution case is accepted as it is then also, the offence under Section 302 of the *Indian Penal Code, 1860* is not made out. He submitted that the Charge-sheet has been filed and till date there is no progress in the trial except framing of charge. He submitted that there are no criminal antecedents against the Applicant. He, therefore, submitted that the Applicant be enlarged on bail.

7. On the other hand, Ms. Newton, learned APP for the Respondent – State vehemently opposes the Bail Application. She submitted that as the first Bail Application was allowed to be withdrawn by Order dated 22.04.2024 by this Court passed in B. A. No. 1610 of 2024, the merits cannot be considered. She submitted that as per the said Order dated 22.04.2024, liberty was granted to the Applicant to file a fresh Bail Application after a period of 10 months, if there is no substantial progress in the trial and said period is not yet completed. After taking instructions, she submitted that the Applicant has no antecedents.

8. Perusal of the record shows that in the present case, the incident in question occurred on 18<sup>th</sup> May 2023, F.I.R. was lodged on 19<sup>th</sup> May 2023, the Applicant was arrested on 19<sup>th</sup> May 2023 and, the Charge-sheet was filed on 17<sup>th</sup> August 2023. As per the Charge-sheet, there are 24 witnesses proposed to be examined by the prosecution. There is no

progress in the trial except framing of the charge. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

9. 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.<sup>1</sup> Therefore, the Applicant is entitled for bail.

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

11. Mr. Arjunwadkar, 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 village Vilholi, District-Nashik and that the Applicant will reside at the residence of Mr. Samadhan Vitthal Jadhav, R/o. Mundhegaon, Taluka – Igatpuri, District – Nashik – 422 403 and will attend the Nashik Taluka Police Station, District - Nashik.

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

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

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

14. In view thereof, the following order:-

**ORDER**

- (a) The Applicant – Tushar Chandrakant Thorat be released on bail in connection with C.R. No.169 of 2023 registered with the Nashik Taluka 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 Vilholi village, District-Nashik 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 Nashik Taluka Police Station, District – Nashik twice a week, on every Monday and Thursday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Nashik Taluka Police Station, District – Nashik 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.]