

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3424 OF 2024

Rahul Sahebrao Sarode	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Shailesh Chavan a/w. Mr. S. P. Sahane & Mr. Hrishikesh Avhad,
 Advocates, for the Applicant
 Ms. R. V. Newton, APP, for the Respondent-State.
 Mr. Kiran Lite, PSI, Sinhgad Police Station, Pune present

CORAM: MADHAV J. JAMDAR, J.
DATED: 08.10.2024

PC:-

1. Heard Mr. Chavan, learned Counsel for the Applicant and Ms. Newton, 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.	419 of 2022
2.	Date of registration of F.I.R.	26/09/2022
3.	Name of Police Station	Sinhagad Road, District-Pune
4.	Section/s invoked	302, 141, 143, 144, 147, 148 & 149 of <i>the I.P.C., 1860</i> ;

		4 & 25 of the <i>Arms Act, 1959</i> ; 37(1) & 135 of the <i>Maharashtra Police Act, 1951</i> .
5.	Date of incident	25/09/2022
6.	Date of arrest	08/12/2022
7.	Date of filing of Charge-sheet	23/12/2022

3. As per the prosecution case, there are a total of 14 Accused. The incident took place in the night of 25th September 2022 to 26th September 2022. The Accused were having a party and at that time they noticed that the deceased was in the vicinity. One of the Accused asked the deceased as to what he was doing at that place. The Victim then fled the place. The Accused chased him and brought him back and the Accused assaulted the Victim. The Victim succumbed to the resultant injuries.

4. It is the submission of Mr. Chavan, learned Counsel for the Applicant that even as per the prosecution case, there is no motive for the Applicant to commit the crime. He submitted that even as per the prosecution case, the deceased was a stranger and he came at the spot where all the Accused were having a party and the Accused thought that the deceased had come there for committing the theft and therefore, the incident in question had taken place.

He submitted that in any case, even if the entire prosecution case is accepted as it is, then also offence under Section 302 of the *Indian Penal Code, 1860* is not made out. He submitted that there are total 14 Accused and out of which 9 have been released on bail. Mr. Chavan, learned counsel for the Applicant submitted that the Applicant is 40 years old. The Applicant is having two children i.e. son and daughter, aged 10 and 11 years respectively. There is no other person in the family to look after the Applicant's family.

5. On the other hand, Ms. Newton, learned APP submitted that in the incident, an innocent person has been mercilessly assaulted by the Accused on the pretext that the deceased was a thief. She pointed out the statements of witnesses – Mr. Balasaheb Ramchandra Kudale, Mr. Digambar Sundar Kamble, and the Post-Mortem Examination Report. She pointed out that there are about 18 injuries and some of them are on the vital part. She also pointed out the relevant material with respect to the CCTV footage, which shows that the Applicant at the relevant time had assaulted the deceased with beer bottle. She therefore submitted that there is material available against the present Applicant and therefore bail be not granted.

6. Ms. Newton, learned APP also submitted that there is an antecedent against the Applicant under Section 302 of the I.P.C..

7. As far as the antecedent is concerned, Mr. Chavan, learned Counsel for the Applicant states that said Case i. e. C. R. No. 238 of 2002 registered with the Swargate Police Station under Section 302 of the IPC has resulted in acquittal by Judgment dated 07.05.2004 passed by the learned Sessions Court, Pune. Mr. Chavan, learned counsel for the Applicant submitted that there is one more antecedent i.e. C. R. No. 54 of 2010 registered with the Dattawadi Police Station for the offence punishable under Section 326 r/w. 34 of the Indian Penal Code and the Applicant has been released on bail.

8. A perusal of the record shows that the incident in question took place on 25th September 2022, F.I.R. was registered on 26th September 2022 and the Applicant has been arrested on 08.12.2022. It is an admitted position that investigation is completed and that the Charge-sheet has been filed on 23rd December 2022. Till date, there is no progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there

are 34 witnesses proposed to be examined by the prosecution. Accordingly, the trial will take considerable time to conclude.

9. Prima facie, there is substance in the contention that there was no motive to commit the crime and as deceased, a stranger, came at the spot where all Accused were having a party they thought that the deceased had come there to commit theft.

10. Although the Applicant is having two antecedents, insofar as the antecedent of the year 2002 is concerned i. e. C. R. No. 238 of 2002, the learned Sessions Court acquitted the Applicant. Insofar as the second antecedent is concerned, the same is of the year 2010 for the offence punishable under Section 326 r/w. 34 of the IPC and the Applicant has been released on bail in the said offence.

11. As the Applicant is incarcerated since two years and as there is no progress in the trial, the Applicant is entitled to be enlarged on bail by imposing conditions.

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

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

14. In view thereof, the following order:-

ORDER

- (a) The Applicant - Rahul Sahebrao Sarode be released on bail in connection with C.R. No.419 of 2022 registered with the Sinhagad Road Police Station, District- Pune on his furnishing P. R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.
- (b) 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.
- (c) The Applicant shall report to the Sinhagad Road Police Station, District-Pune on every Monday between 11:00 a.m. and 1:00 p.m. until the conclusion of the trial.
- (d) 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.

- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) 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.]