

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3463 OF 2024

Nandu Vishwanath Kandalkar, Age 41 years,
Occ.Agriculture, R/o.A.P.Kandalkar Vasti,
Chandgav Shivar, Tal.Yeola,
District Nashik (Presently at Nashik Road
Central Prison.)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Datta Solankar, Advocate for Applicant.

Mrs.Ashwini A.Takalkar, APP, for State.

CORAM : ANIL S.KILOR, J.

DATE : 16th October 2024

PC :

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.249 of 2020 registered with Yeola Police Station, District Nashik, for the offences punishable under Sections 302 of Indian Penal Code.
3. Having gone through the charge and relevant material collected by the Investigating Officer during investigation it is evident that there are statements of witnesses and one of the witness is Rahul Kandalkar who is the son of present applicant. As per his version it appears that the deceased was trying to assault or attack the witness by wooden stump thereupon, he made a phone call to the Applicant i.e. to his father and thereupon he came on the spot and the alleged incidence took place. Applicant and the deceased

are cousins. From the above referred statement it is evident that it was not premeditated but the instance took place in a fit of anger. In the above referred backdrop if the stage of trial is considered, it is informed that though the charge is framed in the month of July-2022, till date no witness is examined. There are about 23 total witnesses and Applicant is in jail from last more than four years.

4. In the circumstances, though the learned APP has strongly opposed the application, I am of the opinion that in view of the judgment of Hon'ble Supreme Court of India in the case of **Sheikh Javed Iqbal @ Ashfaq Ansari @ javed Ansari vs. State of Uttar Pradeshⁱ**, the Applicant is entitled for grant of bail in view of the fact that he is in jail from last more than four years and there is no end to the trial in sight. Hence, I pass following order :

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No.249 of 2020 registered with Yeola Police Station, District Nashik, for the offences punishable under Sections 302 of Indian Penal Code on furnishing PR.Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;
- (iii) The Applicant shall not enter into territorial jurisdiction of Yeola Police Station, Taluka Yeola, District Nashik, till conclusion of trial, except for trial;
- (iv) The Applicant shall provide his address and name of nearby Police Station to the Investigating Officer and attend said Police Station on 1st and 16th day of every month between 10.00 a.m and 12.00 noon till conclusion of trial, except on the date of trial;

i (2024) SCC OnLine-SC-1755

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

(vi) Liberty is granted to the State for cancellation of bail if the applicant breaches any condition or misuses the liberty or commits similar offence;

(vii) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(ANIL S.KILOR, J.)

MST