

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3544 OF 2024

Pravin Khambe	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Ms. Reena Prajapati i/b. Ms. Sakshi S. Mane, Advocates, for the Applicant.

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

Mr. Sagar Pralhad Pawar, PSI, Sinhagad Road Police Station, Pune City, Pune present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 9th OCTOBER 2024

PC:-

1. Heard Ms. Prajapati, learned Counsel appearing for the Applicant and Ms. Newton, learned APP appearing 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 the I.P.C., 1860; 4 & 25 of the Arms Act, 1959; 37(1) & 135 of the Bombay Police Act, 1951.
5.	Date of incident	25/09/2022
6.	Date of arrest	20/12/2022
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 on 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 from 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 Ms. Prajapati, learned Counsel appearing for the Applicant that 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 no antecedents. He submitted that there are total of 14 Accused and out of which 10 have been released on bail.

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 held the right hand of the deceased and then assaulted him. She therefore submitted that there is material available against the

present Applicant which shows his involvement in the serious crime and therefore, bail be not granted.

6. Ms. Newton, learned APP also submitted that there are 2 antecedents as far as the Applicant is concerned. She pointed out Paragraph No.16 of the Affidavit-in-Reply of Rahul Audumbar Yadav, Assistant Police Inspector, Sinhagad Road Police Station, Pune City, Pune dated 24th September 2024. The said Paragraph No.16 reads as under:

“16. I say that the present Applicant/Accused is involved in following offences :-

<i>Sr. No.</i>	<i>Police Stn.</i>	<i>C.R. No.</i>	<i>U/Scs.</i>
<i>1.</i>	<i>Dattawadi PS Pune</i>	<i>0234/2022</i>	<i>U/s 307, 323, 504 r/w 34 of IPC</i>
<i>2.</i>	<i>Sinhagad Road PS Pune</i>	<i>0025/2014</i>	<i>U/s 302, 201 r/w 34 of IPC”</i>

7. As far as the antecedents are concerned, Ms. Prajapati, learned Counsel for the Applicant states that the first antecedent is of the year 2014 under Section 302 of the IPC and in that case the Applicant has been acquitted. She relied on the decision of the

learned Additional Sessions Judge, Pune dated 7th February 2017 passed in Sessions Case No.287 of 2015. As far as the antecedent of the year 2022 is concerned, Ms. Prajapati, learned Counsel appearing for the Applicant states that by order dated 16th January 2023 passed by the learned Additional Sessions Judge, Pune, 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 20th December 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. However, it is required to be noted that the Applicant is having two antecedents which are registered at the Dattawadi Police Station, Pune as well as Sinhagad Police Station, Pune. The present offence is registered with Sinhagad Police Station. As far as antecedent of the year 2014 is concerned, the same is under Section 302 of the Indian Penal Code, 1860 where the Applicant has been acquitted. However, the antecedent of the year 2022 i.e. C.R. No.834 of 2022 registered with Dattawadi Police Station, Pune shows that the offence is under Sections 307, 323, 504 read with 34 of the IPC and under Sections 37(1) and 135 of the Maharashtra Police Act, 1951. The said incident took place on 9th October 2022 and the Applicant has been arrested on 17th October 2022. As far as present case is concerned, the incident took place on 25th September 2022. Thus, within a span of 15 days, the Applicant has committed the said offence i.e. C.R. No.234 of 2022 registered under Section 307 of the IPC.

11. In view of above position, learned Counsel appearing for the Applicant after taking instructions submitted that the Applicant will reside at C/o. Ranjana Dagdu Jadhav (Aunt), At Post Dhamandevi, Bhardewadi, Taluka-Poladpur, Dist. Raigad.

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

13. 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. In view thereof, the following order:-

ORDER

- (a)** The Applicant - Pravin Khambe be released on bail in connection with C.R. No.419 of 2022 registered with the Sinhagad 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)** The Applicant shall not enter the Pune 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 Poladpur Police Station, Taluka – Poladpur, District - Raigad once every week, on every Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Poladpur Police Station, Taluka - Poladpur, District - Raigad 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.

14. The Bail Application is disposed of accordingly.

15. 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.]