

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

BAIL APPLICATION NO.3993 OF 2024

Akash Ashok Sardar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Abhishek D. Nagode a/w Mr. Shivdarshan Khedkar, for the Applicant.

Mr. Y. M. Nakhwa, APP, for the Respondent-State.

Mr. Pankaj Mahajan, P.S.I., Bhosari Police Station, District – Pune, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 08 OCTOBER 2024

P.C.:

1. Heard Mr. Nagode, learned Counsel for the Applicant and Mr. Nakhwa, 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.	51 of 2022
2.	Date of registration of F.I.R.	28th January 2022
3.	Name of Police Station	Bhosari, District - Pune
4.	Section/s invoked	302, 201 r/w 34 of <i>I.P.C., 1860</i> .
5.	Date of incident	27th January 2022 - 28th January 2022
6.	Date of arrest	30th January 2022
7.	Date of filing Charge-sheet	27th April 2022

3. As per the prosecution case, there are total four Accused. The deceased – Ganesh Shivaji Gadkar had abused the Accused and therefore the Accused assaulted said deceased - Ganesh Shivaji Gadkar with stones and thereafter his mortal remains were concealed in a garage.

4. Mr. Nagode, learned Counsel for the Applicant submits that the case is based on circumstantial evidence. There are no circumstances connecting the Applicant with the incident in question. He submitted that the Applicant has been arrested only on the basis of extra-judicial confession of the Accused No.1 – Namdeo *alias* Sharad Shivaji Shinde to his friend Kantu Rathod. He submitted that no role of assault is attributed to the Applicant and the Applicant is behind bar for more than 2 years and 10 months. He submitted that the Accused No.3 – Laxman Raju Nagole has been granted bail by learned Additional Sessions Judge, Pune, by Order dated 30th September 2022 passed in Bail Application No.5753 of 2022. He submitted that Accused No.4 – Bharat *alias* Barkya Bhimrao Ade has been granted bail by this Court by Order dated 18th March 2024 passed in Criminal Bail Application No.1116 of 2024. He stated that his role is similar to that of the said Accused and therefore seeks bail on the ground of parity.

5. On the other hand, Mr. Nakhwa, learned APP vehemently opposed the Bail Application and pointed out that the statement of

Kantu Somu Rathod and submitted that the Applicant is involved in the crime. He also pointed out the cell phone conversation between the Accused No.1 and the witness - Kantu Somu Rathod and submitted that there is sufficient material against the present Applicant.

6. Perusal of the record shows that the incident in question took place on 27th January 2022, F.I.R. was lodged on 28th January 2022, the Applicant was arrested on 30th January 2022. It is an admitted position that investigation is completed and that the Charge-sheet has been filed on 27th April 2022. As per the Charge-sheet, there are about 29 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the Charge is also not framed yet. Accordingly, the trial is likely to take a considerably long time.

7. The case is of circumstantial evidence. *Prima facie*, except the statement of witness - Kantu Somu Rathod and telephonic conversation between the said witness and Accused No.1, there is no material against the present Applicant.

8. Mr. Nagode, learned Counsel for the Applicant states that there is 1 antecedent against the Applicant i.e. C. R. No.302 of 2018, registered with the Bhosari Police Station, District – Pune for the offences punishable under Sections 302, 307 and 34 of the *Indian Penal Code, 1860*. He submits that in that case the Applicant has been granted default bail for non-compliance of Section 167(2)(a)(i) of the *Code of*

Criminal Procedure, 1973.

9. The Applicant does not appear to be at risk of flight.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
11. In view thereof, the following order:-

ORDER

- (a) The Applicant - Akash Ashok Sardar be released on bail in connection with C.R. No.51 of 2022 registered with the Bhosari Police Station, District - Pune on his furnishing P.R. Bond of Rs.25,000/- with one or two 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 Bhosari Police Station, District - Pune on every Sunday 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 prosecution 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.

12. The Bail Application is disposed of accordingly.

13. 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.]