

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.4421 OF 2024

Sandip Chaggan Gaikwad ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Akshay Bankapur, Advocate, for the Applicant.
Ms. Poonam P. Bhosale, APP, for the Respondent-State.
Mr. N. S. Sonawane, PSI, Vani Police Station, Nashik, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 18th NOVEMBER 2024

PC:-

1. Heard Mr. Bankapur, learned Counsel for the Applicant and Ms. Bhosale, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The present Applicant is Accused No.1. The relevant details are as follows:-

1.	C. R. No.	436 of 2023
2.	Date of registration of F.I.R.	22/11/2023
3.	Name of Police Station	Vani, Nashik (Rural)
4.	Section/s invoked	302, 201, 120B of the IPC, 1860
5.	Date of incident	22/11/2023

6.	Date of arrest	24/11/2023
7.	Date of filing of Charge-sheet	21/02/2024

3. The Accused No.3-Dagu Jayram Ushir is the father of the deceased. As per the prosecution case, the deceased was a habitual alcoholic and he used to assault his wife. The deceased had also borrowed some money on interest and therefore, the Accused No.3 and his family were required to sell their valuable land. It is the case of the prosecution that as the Accused No.3 i.e. father of the deceased was fed up with the deceased, he had given a contract to the Applicant i.e. Accused No.1 to kill his son for an amount of Rs.20,000/-. There are in all three persons involved in the offence in question. The present Applicant is the Accused No.1. The Accused No.3-father of the deceased gave the contract to kill the deceased to the Accused No.1 and the third person is the child in conflict with law.

4. It is the contention of Mr. Bankapur, learned Counsel appearing for the Applicant that case is of circumstantial evidence. He submitted that there are contradictions between the statement of mother of the deceased recorded under Sections 161 and 164 of

the Code of Criminal Procedure, 1898 (“CrPC”). The statement recorded under Section 164 of the CrPC does not support the prosecution case. He submitted that the Applicant is labourer and there are no other antecedents. He submitted that in any case, the chargesheet has been filed on 21st February 2024 and till date there is no progress in the trial and even the charge is also not framed.

5. On the other hand, Ms. Bhosale, learned APP strongly opposed the Bail Application. She pointed out Recovery Panchnama (Page 67 to 69). She submits that there is recovery of weapon, clothes and motorcycle at the instance of the Applicant. She points out statement of Meenatai Dagu Ushir (Page 93) and statement of Gorakh Bhimrao Dale (Page 95). She submits that the material on record shows the involvement of the Applicant in crime and therefore, she prayed that the Bail Application be rejected. On instructions, she states that the Applicant has no other antecedents.

6. A perusal of the record shows that the incident in question has taken place on 22th November 2023. The F.I.R. was registered on 22th November 2023. The Applicant was arrested on 24th

November 2023. The Charge-sheet was filed on 21st February 2024. As per the Charge-sheet, there are about 23 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even charge is also not framed.

7. The prosecution has mainly relied on the statement of the mother of the deceased and one witness-Gorakh Bhimrao Dale. However, in the statement recorded under Section 164 of the CrPC, wife of the deceased as well as Gorakh Bhimrao Dale, they have not supported the prosecution case. The case is of circumstantial evidence. The Applicant is a labourer. There are no criminal antecedents against the Applicant.

8. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

9. The Applicant does not have any criminal antecedents.

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

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

12. In view thereof, the following order:-

ORDER

- (a) The Applicant – Sandip Chaggan Gaikwad be released on bail in connection with C.R. No.436 of 2023 registered with the Vani Police Station, Nashik (Rural) on his furnishing P.R. Bond of Rs.15,000/- 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 Vani Police Station, Nashik (Rural) on 1st and 3rd Sunday of each month between 10:00 a.m. to 01:00 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.

13. The Bail Application is disposed of accordingly.

14. 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.]