

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

BAIL APPLICATION NO.5089 OF 2024

Ishwar Devram Thakur

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Vagal a/w Kunal N. Pednekar & Ms. Savvy Kolhekar, for the Applicant.

Mr. C.D. Mali, APP, for the Respondent-State.

Mr. S. K. Bahakar, PSI, Nandgaon Police Station, District – Nashik.

CORAM: MADHAV J. JAMDAR, J.

DATED: 14th DECEMBER 2024

P.C.:

1. Heard Mr. Vagal, learned Counsel for the Applicant and Mr. Mali, learned APP for the Respondent-State.

2. This is the second Bail Application filed under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C. R. No.	190 of 2023
2	Date of registration of F.I.R.	17.05.2023
3	Name of Police Station	Nandgaon Police Station
4	Section/s invoked	302, 120(b), 203, 506 r/w 34 of the <i>IPC, 1860</i> .
5	Date of incident	16.05.2023
6	Date of arrest	17.05.2023
7	Date of filing Charge-sheet	14.08.2023

3. As per the prosecution case, the Applicant has fixed the marriage of deceased Bhola *alias* Walmik Sahebrao Thakur (Pawar) with

Saraswati *alias* Pooja Walmik Thakur. Said Walmik under the influence of liquor used to assault said Pooja as well as the parents of Walmik. The parents of Walmik were of the opinion that said Walmik used to assault them on the instigation of said Pooja. It is the prosecution case that when the incident in question took place i.e. on 16th May 2023 the Applicant had met the deceased Walmik for the purpose of convincing him to behave properly and not to consume liquor. At that time the incident took place and the Applicant assaulted the deceased with an Iron Hammer on his Head and Legs.

4. It is the submission of Mr. Vagal, learned Counsel for the Applicant that the Applicant is in custody since more than 1 year and 7 months i.e. from the date of arrest on 17th May 2023. He submitted that the previous Bail Application was withdrawn with liberty to file a fresh Bail Application after a period of 9 months. Mr. Vagal, states that the Applicant has no other antecedents.

5. At the outset, it is required to be noted that this Court by Order dated 8th March 2024 allowed withdrawal of the first Bail Application with liberty to file a fresh Bail Application after a period of 9 months, if there is no substantial progress in the trial. The material on record shows that 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 30 witnesses proposed to be examined by the prosecution. Accordingly, considerable

time will be required for conclusion of the trial.

6. On the other hand Mr. Mali, learned APP for the Respondent-State strongly opposes the Bail Application. He submits that the first Bail Application is allowed to be withdrawn and therefore, the Applicant is not entitled to seek bail on merits. He submitted that the material on record clearly shows the involvement of the Applicant in the offence in question and therefore Bail Application be rejected.

7. It is an admitted position that the investigation has been completed and that the Charge-sheet has been filed on 14th August 2023. As per the Charge-sheet, there are 30 witnesses proposed to be examined by the prosecution. Accordingly, the trial is likely to take a considerably long time to conclude.

8. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail.

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

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

conditions.

12. In view thereof, the following order:-

ORDER

- (a) The Applicant- Ishwar Devram Thakur, be released on bail in connection with C.R. No. 190 of 2023 registered with the Nandgaon Police Station, District -Nashik on his furnishing PR. Bond of Rs.25,000/- with one or two 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 Nandgaon Police Station, Taluka-Nandgaon, District–Nashik as and when required 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.]