



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3519 OF 2024**

Satish Appa Ahire	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Narendra V. Sharma with Mr. Rachit Khamparia, for Applicant.
Mr. A.A.Naik, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 29 JANUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.230 of 2023 registered with Ambad Police Station for the offences punishable under Sections 302 and 427 read with Section 34 of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. Nitin Ganpat Jadhav (deceased) was the son of the first informant. On 8 April 2023, the daughter of the first informant informed him that the deceased was admitted in Civil Hospital, Nashik. On 9 April 2023, the first informant met the deceased, who was in an injured state. The deceased informed the first informant that on 7 April 2023, he had found a mobile phone handset and an unknown lady, who was the resident of Vitthal Nagar, Kamatwada, Nashik, spoke with him on the said phone. On 8 April 2023, he had gone to Nashik to return the handset to her. The said lady, her husband

and two unknown persons accosted the deceased near Galaxy Hospital, Trimurti Chowk, CIDCO, Nashik. They accused him of having made calls on the phone of the said lady. They assaulted him by means of iron rod. He sustained injuries on his head. Thereupon, he was brought to civil hospital, Nashik.

4. During the course of investigation, it transpired that Pallavi Dhoke (A4) was the said lady, and Nilesh Dhoke, her husband, (A1) and his friends Prasad Mule (A2) and Santosh Appa Ahire (A3) – the applicant herein, had assaulted the deceased. Eventually, the deceased succumbed to his injuries on 23 April 2023. In the meanwhile, the first informant had lodged the report on 12 April 2023.

5. At the outset, learned Counsel for the Applicant submitted that by an order dated 15 January 2025, this Court has released Prasad Shirish Mule (A2) on bail and the applicant, who is similarly circumstanced, is also entitled to be enlarged on bail on the ground of parity. It was further submitted that, at any rate, neither there is material to show that the applicant has actually assaulted the deceased, nor the applicant had motive to commit the alleged offences.

6. As against this, Mr. Naik, learned APP, strongly opposed the prayer for bail. It was submitted that the principle of parity does not apply. Mr. Narayan Tandale, the eye witness, whose statement has also been recorded under

Section 164 of the Code of Criminal Procedure, 1973, has categorically stated that he had seen the applicant and the co-accused assaulting the deceased by means of fist and kick blows and, after the alleged occurrence, the applicant had called him and disclosed that as the deceased had made calls to Pallavi (A4), the deceased was assaulted. Mr. Naik also invited attention of the Court to the transcript of the conversation between the applicant and Narayan Tandale and the Applicant and Atul Patil.

7. I have perused the report under Section 173 of the Code and the documents annexed with it. As is evident from the prosecution case, the deceased was allegedly assaulted by Nilesh Dhoke (A1) as the deceased had called his wife Pallavi Dhoke (A4) on phone, repetitively. There are witnesses who have stated that they had seen deceased being assaulted by the accused. Narayan Tandale has named the applicant as the person who also assaulted the deceased by means of fist and kick blows, along with the other assailants.

8. In the backdrop of the aforesaid material, it is necessary to note that while releasing Prasad Shirish Mule (A2) on bail, this Court observed, inter alia, as under :

“7. Post Mortem report indicates that the deceased had sustained contusion over the neck region, scabbed abrasion over right temporal region and forehead and bluish contusion over right side of chest region. The cause of death was ‘spino-

vertebral damage with cerebro-pulmonary edema in case of blunt trauma'. The incident of assault had occurred on 8 April 2023. The deceased passed away on 23 April 2023. The witnesses have stated that the assailants assaulted the deceased by means of iron rod and fist and kick blows. Prima facie, it does not appear that the deceased had known the assailants from before. As regards the identity of the assailants, the statements of Mr. Sandeep Ranmale and Dharma Savkar, prima facie, indicate that they also had not known the applicant from before. Those witnesses have claimed to have known Pallavi Dhoke (A4) and Nilesh Dhoke (A1). Those witnesses have further stated that Nilesh (A1) was questioning the deceased as to why he had called and sent messages to, his wife Pallavi (A4).

8. In the aforesaid view of the matter, prima facie, it appears that the identity of the applicant as the associate of Nilesh Dhoke (A1) and the assailant, appears to be a matter for adjudication at the trial. Moreover, the absence of direct motive for the applicant also cannot be lost sight of.

9. The applicant has been in custody since 12 April 2023. Having regard to large pendency of cases, it is unlikely that the trial can be concluded within a reasonable period. I am, therefore, persuaded to exercise the discretion in favour of the applicant and enlarge him on bail."

9. In addition to the circumstances arrayed against Prasad Shirish Mule (A2), there are two circumstances which are pressed against the applicant. One, Narayan Tandale has named the applicant as an assailant. Two, after the occurrence, the applicant had called Narayan Tandale and Atul Patil, and, there is, prima facie, reference to the alleged incident of assault in the

transcript of the said conversation. Nonetheless, the following factors deserve to be taken into account. One, the role attributed to the applicant is that of assault by means of fist and kick blows. Two, the applicant had, prima facie, no motive as the deceased had allegedly called Pallavi (A4), the wife of Nilesh (A1). Three, the incident of assault had occurred on 8 April 2023 and the deceased succumbed to his injuries on 23 April 2023.

10. In these circumstances, whether the applicant also shared common intention to commit murder of the deceased appears to be a matter for adjudication at the trial. Investigation is complete. Further detention of the applicant seems unwarranted. The applicant has been in custody for one year and nine months. Having regard to the large pendency of cases, it is unlikely that the trial can be concluded within a reasonable period. I am, therefore, persuaded to exercise discretion in favour of the applicant and enlarge him on bail.

11. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Satish Appa Ahire be released on bail in C.R.No.230 of 2023 registered with Ambad Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before Ambad Police Station on first Monday of every month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. 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 him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)