

Laxmi Sontakke
(P.A.)

HARSHADA
HANUMANT
SAWANT

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3576 OF 2024

Pramod Raman Khulat .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. Gautam Kanchanpurkar, Advocate for the Applicant.
 - Mrs. Rajeshree Newton, APP for the State.
 - PSI, J. M. Nikam, Talasari Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : MAY 06, 2025

P.C.:

1. Heard Mr. Kanchanpurkar, learned Advocate for Applicant and Ms. Newton, APP for the Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No. 09 of 2023 for the offences punishable under Sections 302 and 323 read with Section 34 of the IPC 1860 registered with Talasari Police Station.

3. On 2nd April 2025, after hearing Mr. Kanchanpurkar and learned Prosecutor appearing on behalf of the State, the following order was passed:

"1. Heard Mr. Kanchanpurkar, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent – State.

2. Mr. Kanchanpurkar would persuade the Court to consider grant of bail to the Applicant who has been incarcerated for the past 2 years in an offence under Sections 302 and 323 read with 34 of the Indian Penal Code, 1860.

2.1. He would submit that Applicant's and the deceased victim's family are neighbours and there was a land dispute between them due to which the scuffle took place leading to the incident in question. Role of Applicant *prima facie* attributed is of he having inflicted kick and fist blows on the deceased victim according to the prosecution.

2.2. He would however persuade the Court to consider the witness statements recorded by prosecution which *prima facie* do not subscribe to the prosecution case as Applicant having inflicted kick and fist blows on the deceased victim. He has drawn my attention to the witness statement appended at page No.52 of the Application and would submit that if the same is seen, it would be evident that the role attributed to Applicant at the time of incident is that he inflicted kick and fist blows on the First Informant son of the deceased victim, who is one of the injured victim having suffered simple injury. He would submit that the said injured victim is the the First Informant in the present case.

2.3. Next he would submit that the incident was not pre-meditated and planned in as much as it happen on the spur of moment because of the animosity between the parties and therefore considering the role of the Applicant he be enlarged on bail.

3. Ms. Bajoria, learned APP is directed to take appropriate instructions from the concerned Investigating Officer on the precise role of the Applicant in the crime and accordingly apprise the Court on the next adjourned date on the veracity of the aforementioned submissions made by Mr. Kanchanpurkar.

4. List the Bail Application on Board 22nd April, 2025. To be placed on the 'Supplementary Board'."

4. Today in response to the questions raised by this Court in paragraph Nos. 2.1 to 2.3 of the above order, learned Prosecutor has drawn my attention to page No. 18 in order to justify the role of Applicant in the present crime. She would *prima facie* point out that as stated by the first informant-son of deceased victim in unnumbered

paragraph No.4 of his complaint he has stated that while he was running away from the scene of the crime, he saw that the Applicant, namely, Promod was also inflicting fist blows. The reason why this statement is replicated herein is because there is a clear dichotomy noticed by the court in the same unnumbered paragraph No.4 wherein the first informant-complainant has stated that Applicant resultantly because of the dispute and quarrel and altercation inflicted fist blows on the first informant. In so far as the assault carried out on the victim is concerned, the same is attributed by first informant to the other co-accused person, who is the brother of present Applicant.

5. Further learned Prosecutor has drawn my attention to the Section 164 statement of the witnesses, which are appended from paragraph 52 onwards to the present application. She has drawn my attention to the statement of one Shevanti Bhagat, appended at page No. 56 and statement of Harkhu Khulat appended at page No. 53 to persuade me to consider the role of Applicant. In so far as the statement of Harkhu Khulat is concerned, she is apparently an interested witness being the wife of the first informant. In her statement, it is not clear as to what was the precise role of Applicant. She has however alleged commission of assault by brother of Applicant. In so far as Shevanti Bhagat's statement on page No. 56 is concerned, *prima facie* it is seen that no role has been attributed to the present Applicant.

6. In view of the aforesaid prima facie observations and dichotomy noticed by the Court in the FIR filed by first informant, Applicant has made out a case for grant of bail considering the role attributed to him from the prosecution case. Hence, Applicant is directed to be released on bail on the following terms and conditions:-

7. Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,0000/- with one or two sureties in the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000 /- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iv) After his release from jail, Applicant shall report to

the Investigating Officer as and when called for;

(v) Applicant shall attend the trial Court on first Saturday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Saturday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and/or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

8. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any

observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

9. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]