

Shabnoor

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

BAIL APPLICATION NO.4202 OF 2024

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Montu @ Dharmendra Amarsingh Patel ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Mahesh M. Funde with Mr. Kiran S. Nikam for the applicant.

Ms. Supriya I. Kak, APP for the respondent-State.

Mr. N.B. Gaikwad, PSI, Shivaji Nagar Police Station, Ambarnath (East), is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 1, 2025

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, by the applicant seeking his release on regular bail in connection with Crime Register No. 24 of 2023 registered with Shivaji Nagar Police Station, for offences punishable under Sections 307, 324, 142, 143, 144, 147, 149, 504, and 506 of the Indian Penal Code, 1860, and also under Sections 35(1) and 135 of the Maharashtra Police Act, 1951.

2. As per the prosecution case, the incident occurred on 18 January 2023 at around 2:00 p.m. It is alleged that when the fiancée of the complainant was passing in front of the jeans factory belonging to the present applicant, the applicant and co-accused Amit teased her and used obscene language directed towards her,

thereby outraging her modesty. When the complainant confronted the applicant at his jeans factory to question his behaviour, the applicant and the other co-accused allegedly got enraged and attacked the complainant. It is alleged that the applicant assaulted the complainant with a wooden log, co-accused Rakesh assaulted him with a large scissor, and further threatened to kill him. The complainant was also hit with an iron pipe on the head, causing grievous injuries. It is further alleged that when friends of the complainant tried to intervene, they too were assaulted.

3. Learned Advocate appearing on behalf of the applicant submitted that the most serious injury, i.e., skull injury, is specifically attributed to co-accused Rakesh Patel, who allegedly used a sickle. As far as the present applicant is concerned, the only role attributed to him is that of assaulting with an iron rod. However, no recovery of any such weapon has been effected from the applicant. Moreover, there is no specific injury in the medical certificate which can be directly linked to the alleged assault by the applicant. It is further submitted that the applicant has been arrested on 1 November 2023, which is nearly ten months after the date of incident. The investigation is complete, and charge sheet has been filed. Considering that there are several accused and multiple witnesses, there is no likelihood of early conclusion of the trial. Therefore, it is prayed that the applicant be released on bail.

4. On the other hand, learned APP has strongly opposed the bail application. It is submitted that the applicant is a resident of Uttar Pradesh and was absconding for a period of almost ten

months after the incident. It is apprehended that if released on bail, he may again abscond and may not be available for trial. It is further submitted that the nature of the assault, particularly the fact that the complainant sustained grievous injuries including on the head, shows that the act was done with intent to cause death, thereby attracting the offence punishable under Section 307 of the Indian Penal Code.

5. I have carefully considered the rival submissions and perused the material placed on record. It is not in dispute that the incident in question occurred on 18 January 2023, whereas the applicant came to be arrested on 1 November 2023, nearly ten months later. The charge sheet has been filed and custodial interrogation of the applicant is no longer required.

6. Upon perusal of the injury certificate, it is seen that the grievous head injury is specifically attributed to co-accused Rakesh Patel, who allegedly used a sickle. The role attributed to the present applicant is of assault by an iron rod or wooden log. However, the prosecution has not effected any recovery of such weapon from the applicant. Furthermore, no injury in the medical record is shown to be specifically caused by the alleged iron rod attributed to the applicant.

7. Although the applicant is a resident of Uttar Pradesh and was arrested after a considerable delay, it cannot be ignored that the trial is yet to commence and there are several accused and multiple witnesses to be examined. The likelihood of the early conclusion of the trial appears remote. The apprehension of the

applicant absconding or tampering with the evidence can be addressed by imposing appropriate conditions.

8. In the facts and circumstances of the case, particularly the nature of the role attributed to the applicant as compared to that of co-accused, and considering the length of custody already undergone, as well as the settled principle that bail is the rule and jail is the exception, this Court is of the opinion that the applicant deserves to be enlarged on bail.

9. Hence, the following order:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.24 of 2023 filed with Shivaji Nagar Police Station for offences punishable under Section 307, 324, 142, 143, 144, 147, 149, 504, 506 of the Indian Penal Code, 1860 and under Sections 35(1) and 135 of the Maharashtra Police Act, 1951, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:
 - a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.
 - (b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid

grounds supported by sufficient cause.

(c) The applicant shall report to the Shivaji Nagar Police Station twice in the month i.e., on the first day and fifteenth day of every month between 10.00 a.m. and 12.00 noon, until further orders.

d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

(f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

10. The bail application is allowed and disposed of in above terms.

(AMIT BORKAR, J.)