

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

CRIMINAL BAIL APPLICATION NO. 4539 OF 2024

Dinesh Dipak Shinde

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Prajakt Arjunwadkar a/w Mr. Raj S. Satam, learned Advocates for the Applicant.

Ms. Madhavi H. Mhatre, learned A.P.P for the State/Respondent.

API Mr. Sunil Powar attached to Kamshet Takve Police Station, District-Pune Rural is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 21st AUGUST 2025.

P.C. :

1. Heard Mr. Prajakt Arjunwadkar, learned Advocate for the Applicant and Ms. Madhavi Mhatre, learned A.P.P for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 252 of 2022 registered on 27th December 2022 with Kamshet Takve Police Station, District-Pune Rural for the offences punishable under Sections 307, 326, 323, 504, 506, 143, 144, 147, 148, 149, 452, 427 & 109 of the Indian Penal Code, 1860 (“**IPC**” for short) and Sections 3, 25 & 27 of the Indian Arms Act, 1959.

3. Ms. Madhavi Mhatre, learned A.P.P for the State/Respondent on instructions from the Investigating Officer submits that the abovesaid crime is registered as Criminal Case No. 146 of 2023 and is pending committal to the Court of Sessions.
4. There are 12 accused persons in the present crime. Applicant is Accused No. 5.
5. First Information Report was registered on the basis of complaint lodged by Somnath Anant Gaikwad (Informant). Case of the prosecution is that on 26th December 2022 at about 4.00 p.m., the Informant, his brothers Devidas Gaikwad, Yogesh Gaikwad and his friends Navnath Chopade, Rahut Vaybhat, Gulab Deva Dalvi & Aniket Lande, were sitting in front of the house of Navnath Chopade. All of a sudden, the Applicant and other accused persons came to the said house, armed with weapons like iron sickle, wooden/iron rods and assaulted the brothers and friends of the Informant. Intentions accused persons was to kill Deva Gaikwad.
6. Applicant was arrested on 13th June 2024, since then he is in jail. Criminal Bail Application No. 281 of 2024 filed by the Applicant was rejected by the learned Additional Sessions Judge, Vadgaon Maval, Pune by order dated 1st August 2024.
7. Mr. Prajakt Arjunwadkar, learned Advocate for the Applicant submits that the involvement of Applicant in the crime is of assaulting the victims by use of wooden rod.
8. Ms. Madhavi Mhatre, learned A.P.P for the State/Respondent

submits that there are eye witnesses to the crime, which include the Informant wherein he has made reference to the Applicant assaulting the victims. She submits that the Applicant has 9 criminal antecedents and there is every possibility of the Applicant repeating the offences, he being the habitual offender.

9. In the rejoinder, Mr. Prajakt Arjunwadkar, learned Advocate for the Applicant submits that the co-accused nos. 1 to 4 & 6 to 10 who are the main assailants in the crime have been released on bail by the Additional Sessions Judge, Vadgaon Maval, Pune by orders dated 27th March 2023, 17th April 2023 and 27th June 2023, respectively. He tenders copies of said 3 orders, which are taken on record and marked as "X Colly." for identification. He by referring to the observations in the said orders (at X Colly.), submits that Pramod Sandbhor (Accused No. 2) had 6 criminal antecedents, whereas Mangesh More (Accused No. 3) had 10 criminal antecedents. He submits that the Additional Sessions Judge has referred to the all criminal antecedents of said 2 accused persons and upon consideration of their respective cases, have enlarged them on bail. He submits that the Applicant though is involved in 9 criminal antecedents, the Applicant has been granted bail in all the said criminal cases. He submits that the involvement of Applicant in the present crime is lesser than the co-accused nos. 1 to 4 & 6 to 10 who are released on bail. He submits that Applicant has a good case on merits and therefore, the criminal antecedents would not be a ground to deny bail to the Applicant.

10. I have perused the records with the assistance of learned Advocates of the parties.

11. Perusal of the charge-sheet reveals that the Informant in his statement though has referred to the Applicant's involvement in the crime as an assailant using iron rod, however other eye witnesses viz. Aniket Dhananjay Lande, Gulab Chandrakant Dalvi, Navnath Chopade and Shubham Shankar Walunjkar, have referred to the Applicant participating in the assault by use of wooden rod (दांडा). Amongst the aforesaid eye witnesses, Shubham and Gulab are the victims of the said assault. Injury certificate of Shubham (at page no. 80 of the paper-book) and injury certificate of Gulab (at page no. 82 of the paper-book) indicate injuries are simple in nature.

12. Co-accused nos. 1 to 4 & 6 to 10 in the said crime, whose involvement is of assaulting victims by use of pistol, sickle and iron rod, have been enlarged on bail (documents at X Colly.). Considering the nature of allegations and material on record, continuation of the Applicant in jail pending the trial is not warranted.

13. In the case of *Prabhakar Tewari v/s. The State of Uttar Pradesh and Another*¹, the Hon'ble Supreme Court in paragraph no. 7 has observed as under :-

“7. On considering the submissions of the learned counsel for the parties, having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in Mahipal [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] for testing the legality of an order granting bail are absent in the order [Vikram Singh v. State of U.P., 2019 SCC OnLine All 5566] impugned. The materials available do not

¹ (2020)11 SCC 648.

justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order [Vikram Singh v. State of U.P., 2019 SCC OnLine All 5566] of the High Court granting bail. This appeal is dismissed.

(emphasis supplied)”

14. In the case of *Ayub Khan v/s. The State of Rajasthan*², the Hon’ble Supreme Court in paragraph nos. 9 and 10 has made the following observations :-

“9. The principles to be followed while deciding on a bail application are well settled. If Trial Courts commit errors while deciding bail applications, the same can always be corrected on the judicial side by the Courts, which are higher in the judicial hierarchy. The Constitutional Courts can lay down the principles governing the grant of bail or anticipatory bail. However, the Constitutional Courts cannot interfere with the discretion of our Trial Courts by laying down the form in which an order should be passed while deciding bail applications. What the High Court has done in paragraph 9 in the decision in the case of Jugal Kishore [(2020)4 RLW 3386] is that it has made it mandatory for the Trial Courts to incorporate a chart containing details of the antecedents of the accused who applies for bail.

10. The presence of the antecedents of the accused is only one

² 2024 SCC OnLine SC 3763.

of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents. In such cases, the question of incorporating details of antecedents in a tabular form does not arise. If the directions in the case of Jugal Kishore are to be strictly implemented, the Court may have to adjourn the hearing of the bail applications to enable the prosecutor to submit the details in the prescribed tabular format.”

15. Applicant is in jail since 13th June 2024. Role assigned to the Applicant in the present crime, as revealed from the statement of victims/eye witnesses, is of participating in the assault by use of wooden stick. Assailants who have used sickle, iron rod, etc. having criminal antecedents, are enlarged on bail. Applicant has made out a case for securing bail.

16. Guided by the observations of the Hon’ble Supreme Court in the case of *Prabhakar Tewari (supra)* and *Ayub Khan (supra)*, I am of the considered view that presence of criminal antecedents itself, in the facts and circumstances of the present case, would not be sufficient to deny bail to the Applicant. Material placed on record in the present crime, makes out a *prima facie* case for enlarging the Applicant on bail.

17. Ms. Madhavi Mhatre, learned A.P.P for the State/Respondent

submits that if the Applicant is granted bail, than stringent bail conditions be imposed.

18. Mr. Prajakt Arjunwadkar, learned Advocate for the Applicant submits that the Applicant shall abide by all the conditions, as may be imposed on the Applicant. He on instructions from the Applicant submits that pending the trial of Criminal Case No. 146 of 2023, the Applicant shall not enter the jurisdiction of Kamshet Takve Police Station, District-Pune Rural. Statement is accepted.

19. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 252 of 2022 registered with Kamshet Takve Police Station, District-Pune Rural for the offences punishable under Sections 307, 326, 323, 504, 506, 143, 144, 147, 148, 149, 452, 427 & 109 of the IPC and Sections 3, 25 & 27 of the Indian Arms Act, 1959 on executing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two local sureties in the like amount to the satisfaction of the Additional Sessions Judge, Vadgaon Maval, Pune.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade such a person from disclosing the facts to the Court or to any police personnel.

- c. Applicant shall not tamper with the prosecution evidence and shall not contact or influence any witness in any manner.
- d. Applicant upon his release from jail, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Kamshet Takve Police Station, District-Pune Rural and shall keep the same updated, in case of any change thereto.
- e. Applicant shall co-operate in the conduct of the trial and shall regularly attend the trial in Crime No. 252 of 2022 before the concerned Court on each and every date, unless exempted from appearance.
- f. Applicant shall report/attend before the Investigating Officer, Kamshet Takve Police Station, District-Pune Rural on 1st and 4th Saturday of every month from 10.00 a.m. to 1.00 p.m. till conclusion of the trial in Crime No. 252 of 2022 .
- g. Applicant shall not enter the territorial jurisdiction of Kamshet Takve Police Station, District-Pune Rural, till conclusion of the trial in Crime No. 252 of 2022, except for attending the hearing of the said case and for the purpose of reporting before the Investigating Officer of said Police Station.

20. Criminal Bail Application No. 4539 of 2024 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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by GITALAXMI
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