

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

BAIL APPLICATION NO.4878 OF 2024

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Shivdatta alias Dada Shridhar Suryawanshi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rupesh Atul Zade, for the Applicant.

Mr. S. S. Ghag, APP, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 31 JANUARY 2025

P.C.:

1. Heard Mr. Zade, learned Counsel for the Applicant and Mr. Ghag, learned APP for the Respondent – State.

2. This is the second Bail Application filed under Section 439 of the *Code of Criminal Procedure, 1973* (“CrPC”) by the Applicant who is Accused No.4. The first Bail Application being Bail Application No.1925 of 2023 has been allowed to be withdrawn by this Court by Order dated 21st February 2024, by which liberty has been granted to the Applicant to file a fresh Bail Application after a period of 8 months, if there is no substantial progress in the trial.

3. The relevant details are as follows:-

1	C.R. No.	368 of 2022
2	Date of registration of F.I.R.	01/11/2022
3	Name of Police Station	Vadgaon Nimbalkar, District - Pune
4	Section/s invoked	302, 364, 201 & 34 of the Indian Penal Code, 1860.

5	Date of arrest	01/11/2022
6	Date of filing Charge-sheet	27/01/2023

4. The Respondent – State of Maharashtra has opposed this Bail Application by filing Affidavit dated 9th January 2025 of Rahul Madhukar Sabale, Police Sub Inspector, Vadgaon Nimbalkar Police Station, Taluka – Baramati, District – Pune. The prosecution case is set out in Paragraph No.3 of the said Affidavit, which reads as under :-

“3. I say that the prosecution story in short is as under:-

That Orig. Complainant/Informant namely Mahendra Gopal Phanse who works as a Police head constable at Vadgaon Nimbalkar Police Station since last three year.

One Vrushali Vaibhav Yadav had filed missing complaint in Vadgaon Nimbalkar Police Station stating that her husband Vaibhav Vitthal Yadav was missing from at 8.30 on 19.02.2022 and it came to be recorded a Missing complaint vide registered as Missing No. 13 of 2022, they had sent list of missing persons to the nearby Police Station they had also made postal communication about the call details of missing persons they had enquired with the relatives of the missing person when they were doing investigation of the missing complaint No. 13 of 2022 they received secret information as per the secret information they had taken one Rohit Khomane in custody for the Investigation the said Rohit Khomane was giving unsatisfactory answers ensured the secret information, they have explained him the provisions of section 41 (B -a) and explained him the reasons of his arrest as per the guidelines of the Hon'ble Supreme Court of India and arrested him at about 21.13 on 31.10.2022.

On 01.11.2022 at about 10.00 am in the morning the accused Rohit Khomane having age 29, residing at Vadgaon Nimbalkar, Taluka -Baramati, District - Pune was taken outside from the lock up and enquired him person. During enquiry the Applicant shows willingness to give the information regarding the deceased person. The investigation

team has taken recourse as per the section 27 of the Indian Evidence Act they immediately arrange two government panch's witness and one photographer namely 1. Somnath Subhash Pawar 2. Dattatraya Kashinath Magar, both are working at MSECL and photographer namely 3. Avinash Nandkumar Kadam residing at Vadgaon Nimbalkar Taluka-Baramati, District- Pune remained present for preparing Panchanama.

The accused Rohit Khomane narrated before them that he was having illicit relations with one Vrushali Vaibhav Yadav who is the wife of deceased Vaibhav Vitthal Yadav and he was always beating her because of the said reason and therefore on 19.02.2022 at 11.30 p.m. he along with Vrushali and other accused namely Sagar Sarjerao Chavan, Shivadatta @ Dada Shridhar Suryawanshi all residing at Vadgaon Nimbalkar, Taluka- Baramati had taken deceased to the field of one Ravindra Jadhav in a Wagon-R Car and assaulted him to death by bomboo stick and sugarcane stick and fist and blows. They have thrown his dead body near the canal at village Padegaon the accused told them that he will show the place where they have beaten the deceased and he will show the place where he has kept the sticks the accused have given confession in presence of two witness and police staff. They have visited the said place as the narration of the accused and they have recovered the sticks as per the version of the accused and they have prepared the Panchanama as per the section 27 of the Indian Evidence Act.

(r) On the basis of the complaint lodged by the Orig. Complainant, offence vide CR No. 368 /2022, u/secs.302, 364, 201 and 34 of Indian Penal Code registered with Vadgoan Nimbalkar Police Station, Dist.: Pune (Rural) on 01.11.2022 against (1) Rohit Dattatraya Khomane, (2) Vaishali Vaibhav Yadav (3) Sagar Sarjerao Chavan 4) Shivadatta @ Dada Shridhar Suryawanshi and investigation was commenced. ”

5. It is the submission of Mr. Zade, learned Counsel for the Applicant that, even as per the prosecution case, the Applicant has not participated in the actual assault on the deceased. To support the said

contention, he relied on the statement recorded under Section 164 of CrPC of the child witness who is the eye-witness. He submitted that although the Applicant is behind bar for about 2 years and 2 months, there is no progress in the trial and even the charge is also not framed. He therefore submitted that the Applicant be released on bail.

6. On the other hand, Mr. Ghag, learned APP strongly opposes the Bail Application. He submits that the Applicant along with the other Co-Accused had killed the deceased. He submitted that the Applicant had participated in the offence and cloths of the deceased were recovered at the instance of the present Applicant. However, on the basis of the statement of the child – witness namely Aryan Vaibhav Yadav, he submitted that as far as the actual incident is concerned, the role of the present Applicant is that the Applicant was sitting in a car along with the said child witness i.e. son of the deceased and Co-Accused – Vrushali Vaibhav Yadav. He therefore submitted that as the Applicant is involved in the offence, the Bail Application be rejected.

7. Perusal of the record shows that F.I.R. has been lodged on 1st November 2022, the Applicant was arrested on 1st November 2022 and the Charge-sheet has been filed on 27th January 2023. Till date, there is no progress in the trial and even the charge is also not framed. As per the Charge-sheet, there are a total of 15 witnesses proposed to be examined by the prosecution. Thus, the trial will 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. *Prima facie*, the Applicant has not participated in the actual assault on the deceased. However, the Applicant was actively involved in the offence and cloths of the deceased were recovered at the instance of the Applicant.

10. Mr. Ghag, learned APP expresses an apprehension that as most of the witnesses are from Taluka – Baramati, District – Pune including the child witness and as the Applicant is also from Taluka – Baramati, District – Pune, there is possibility of witnesses being pressurised. Mr. Zade, learned Counsel for the Applicant, on instructions, states that the Applicant will therefore not reside within Taluka – Baramati, District – Pune and that the Applicant will reside at C/o. Nayana Shridhar Suryawanshi, Near Saibaba Mandir, Golibar Maidan, Satara City, District – Satara.

11. The Applicant does not appear to be at risk of flight.

12. Accordingly, case is made out for granting bail to the Applicant by

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

imposing strict conditions.

13. In view thereof, the following order:-

ORDER

- (a) The Applicant - Shivdatta alias Dada Shridhar Suryawanshi be released on bail in connection with C.R. No.368 of 2022 registered with the Vadgaon Nimbalkar Police Station, District – Pune on his furnishing PR. Bond of Rs.50,000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter Taluka – Baramati, District – Pune after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (c) 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.
- (d) The Applicant shall report to the Satara City Police Station, District – Satara once every week i.e. on every Sunday between 10.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Satara City Police Station, District – Satara to communicate details thereof to the Investigating Officer.
- (e) 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.
- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

14. The Bail Application is disposed of accordingly.

15. 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.]