



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3819 OF 2023

Datta @ Sunil Purushottam Lekawale ...Applicant
Versus
The State of Maharashtra ...Respondent

Ms. Sana Raees Khan a/w. Mr. Aditya Parmar, Ms. Ruchita Rajpurohit and Mr. Abhijeet Singh, Advocates for the Applicant.
Mr. P. H. Gaikwad, APP for the Respondent-State.
Mr. Sanjay Sumnase, P.S.I. attached to Rajgad Police Station, Pune Rural present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 8th FEBRUARY 2024

PC:-

1. Heard Ms. Khan, learned Counsel appearing for the Applicant and Mr. Gaikwad, learned APP appearing for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	371 of 2020
2.	Date of Registration of F.I.R.	07/07/2020
3.	Name of Police Station	Rajgad Police Station, Pune Rural.
4.	Section/s invoked	302, 324, 307, 143,

		147, 148, 149, 120B of the I.P.C., 1860 and 4 & 25 of the Arms Act, 1959.
5.	Date of Incident	06/07/2020
6.	Date of Arrest	08/07/2020
7.	Date of filing of Charge-sheet	01/10/2020

3. Ms. Khan, learned Counsel appearing for the Applicant submitted that the Applicant is seeking bail only on the ground of parity. She pointed out order dated 12th July 2022 passed by the Hon'ble Supreme Court of India in Special Leave to Appeal (Cri.) No. 3257 of 2020. She submitted that the role which is assigned to the present Applicant is the same as that assigned to the Accused No.2-Mahesh Lekavale who has been granted bail by the Hon'ble Supreme Court of India. She submitted that there are no criminal antecedents against the Applicant.

4. On the other hand, Mr. Gaikwad, learned APP opposed the Bail Application by filing affidavit-in-reply. He submitted that the Applicant has played a major role in the offence. He submitted that there is no parity applicable to the present Applicant.

5. Before considering the merits, it is required to be noted that in this case, Accused No.3-Prashant Baburao Badade has been granted bail by a learned Single Judge (Coram: N. R. Borkar, J.) by Order dated 8th March 2023 passed in Criminal Bail Application No.404 of 2023. Accused No.4-Pankaj Baburao Badade has been granted bail by the learned Additional Sessions Judge, Pune by Order dated 18th September 2023 passed below Exhibit-100 in Sessions Case No.57 of 2021. The Accused No.5-Chandrakant Dhondiba Walgude has been granted bail by Order dated 9th November 2022 passed by a learned Single Judge (Coram: S. K. Shinde, J., as he then was) in Bail Application No.440 of 2022. The Accused No.6-Sachin Bhagwan Bhilare has been granted bail by Order dated 14th June 2021 passed by the learned Single Judge (Coram: Sarang V. Kotwal, J.) in Criminal Bail Application No.1389 of 2021.

6. As per the Administrative Notice dated 8th February 2024, all Bail Applications arising from the same F.I.R. shall be placed before the same Hon'ble Judge to avoid conflicting decisions. However, it is provided that in case where Bail Application of co-Accused has been decided by one Hon'ble Judge, then Regular Bail Application

of another co-Accused arising from the same F.I.R. shall be placed before the same Hon'ble Judge who has decided the last Bail Application. However, the administrative decision also provides that the directions therein shall not apply if the Hon'ble Judge, who has decided the first Bail Application arising from the same F.I.R., is not available at the Station/Bench or is presiding over a Division Bench. The first bail order is passed by Justice S. K. Shinde (Retd.). The last bail order has been passed by Justice N. R. Borkar by Order dated 8th March 2023. As per the present assignment, Justice N. R. Borkar is sitting on a Division Bench. In view of this, the registry has placed this Criminal Bail Application before this Court.

7. Ms. Khan, learned Counsel appearing for the Applicant submitted that the Application has been filed on the ground of parity and she has relied on the bail order granted by the Supreme Court. The relevant portion of the said order reads as under:

“Though learned counsel for the respondent has straneously opposed the prayer for bail in this matter but, having regard to the totality of the facts and circumstances of the case and more particularly looking to the fact that the co-accused has been granted bail by the High Court in Criminal Bail

Application No.1389 of 2021, and looking to the nature of accusations, we find it a fit case for grant of bail to the appellant.

Accordingly, the appeal is allowed and, while setting aside the order impugned, the appellant is ordered to be released on bail on such terms and conditions as may be imposed by the Trial Court.”

8. The Appellant before the Supreme Court of India was Accused No.2-Mahesh Purshottam Lekavale. As it is the contention of Mr. Gaikwad, learned APP appearing for the State that parity is not applicable, it is necessary to consider the relevant part of the F.I.R. dated 7th July 2020, the same reads as under:-

“काल दिनांक ६/७/२०२० रोजी मी नेहमीप्रमाणे सकाळी ०७.०० वाजता उठून माझे आवरून ०८/०० वाजणेचे सुमारास नवसहयाद्री कॉलेज केळवडे ता. भोर येथे बांधकाचे कामावर गेलो त्यानंतर सायंकाळी ७/०० वाजणेचे सुमारास मी घरी आलो त्यावेळी घरात मी माझी आई, पत्नी व दोन मुले असे घरात होते प्रविण हा आमचे घराचे वरच्या मजल्यावर बसलेला होता. त्यावेळी मी घरात फ्रेश होवून रात्री ०८/१५ वाजणेचे सुमारास मी माझे पुण्यातील नातेवाईक जाधव यांना फोन करून फोनवर बोलत असताना वरच्या मजल्यावरून भाचा प्रविण हा फोनवर बोलत खाली आला व घरातुन बाहेर गेला त्यावेळी सर्वजण बाहेर येवून पाहीले असता घराचे बाजुला चार मुले हातात कोयते घेवून भाचा प्रविण यास मारहाण करित होते तसे मी व माझी मुले संग्राम, संगम असे सदर ठिकाणी पळत जावून पाहीले असता मारहाण करणारे आमचे गावातील दत्ता पुरषोत्तम लेकावळे, त्याचा भाउ महेश पुरषोत्तम लेकावळे व दोन अनोळखी

मुले होते ते सर्वजण प्रविण यास कोयत्याने डोक्यात मानेवर हातावर वार केले तसा भाचा प्रविण हा आमचे दारात उभी असलेल्या स्कॉर्पीओवर पडता तर त्या चौघांनी भाचा प्रविण यास ओढत पुढे देवगी कंपनीच्या गेटच्या आतमध्ये नेहले तसे मी व माझा मुलगा संग्राम असे पळत जावुन मुलगा संग्राम याने दत्ता लोकावळे यास धरले व मी त्याचेसोबत असलेल्या अनोळखी मुलांस धरले त्यावेळी दत्ता याने मुलगा संग्राम यास ढकलुन देवुन पुन्हा भाचा प्रविण याचे अंगावर कोयत्याने वार करण्यास सुरवात केली त्यावेळी मी दत्ता थांब असे म्हणलो. परंतु त्याने काही न ऐकता भाचा प्रविण याचेवर कोयत्याने वार करीत होता. त्यावेळी मी धरलेल्या इसमाचे हातातील कोयता हिसकावुन घेत असतांना त्याचा कोयता माझे उजवे हाताचे मनगटावर व दंडावर लागला तसे मी सदर इसमास सोडुन दिले. व दत्ता लोकावळे याचेकडे गेलो असता त्याने माझे अंगावर येवुन माझेवर कोयता उगारला तसा मी बाजूला सरकलो असता दत्ता लोकावळे हा पुन्हा प्रविण याचे जवळ जावुन त्याचे अंगावर कोयत्याने वार करून तुला मारायला आम्हाला सचिन भिलारे याने सांगितले आहे असे ओरडुन दत्ता लोकावळे, महेश लोकावळे व त्याचे अनोळखी दोन इसम हे पळत जावुन त्यांनी आणलेली कार मध्ये जावुन बसुन ते तेशुन निघुन पळुन गेले त्यानंतर मी, मुलगा संग्राम, संगम, पत्नी सौ. विदया व आई इंदुबाई असे प्रविण याचे जवळ गेला असता प्रविण याचे डोक्यावर, मानेवर, हातावर कोयत्याने वार होवुन रक्तभंबाळ अवस्थेत पडलेला होता.”

9. Thus, it is clear that the role of the Accused No.2 and the role of the present Applicant is the same and therefore, parity is applicable.

10. Apart from the parity, in this case, except the present Applicant, all other Accused have been granted bail.

11. The incident in question has occurred on 6th July 2020, F.I.R. has been lodged on 7th July 2020 and the Charge-sheet has been filed on 1st October 2020. As per Charge-sheet, there are total 36 witnesses proposed to be examined by the prosecution. It is an admitted position that even the charge is not yet framed. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

12. Ms. Khan learned Counsel appearing for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within District-Pune and that the Applicant will reside At Post-Kavathe, Taluka-Khandala, District-Satara.

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

14. The Applicant has no criminal antecedents.

15. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant-Datta @ Sunil Purushottam Lekawale be released on bail in connection with C. R. No.371 of 2020 registered with the Rajgad Police Station, Taluka-Bhor, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter 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 Khandala Police Station, Taluka-Khandala, District-Satara once every

week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Khandala Police Station, Taluka-Khandala, 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 evidence and shall not contact or influence the Complainant or any witnesses 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.

16. The Bail Application is disposed of accordingly.

17. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits and uninfluenced by the observations made in this order.

(MADHAV J. JAMDAR, J.)