

**ORDER BELOW EX. 01 IN CRIMINAL BAIL APPLICATION**  
**NO. 287 OF 2022**

{Swapnil Dattatray Patil vs. The State of Maharashtra through Mhasrul  
Police Station}

This is the bail application under section 439 of the Criminal Procedure Code, 1973 filed by the applicant-accused in crime No. 158 of 2021 registered with Mhasrul Police Station, Nashik for the offences punishable under sections 302 read with 34 of the I. P. C. and 4 read with 25 of the Arms Act.

02] The applicant contended that false and fabricated case is registered against him. He is innocent. He has not committed any offence. He has not assaulted the complainant. There is no evidence against him. He also sustained injuries to his hands on the palm surface and is extended on middle finger and right finger of the hands. No weapon has been used by him. The offence is committed by other accused and he was saving the complainant. His first bail application was rejected. Now, charge sheet is filed and investigation is completed. Accused is in Jail from 05.12.2021. He has no criminal antecedent. He is permanent resident of Nashik and having movable and immovable property. He is ready to abide by any conditions imposed by the court. So, he has prayed for grant of bail.

03] learned APP has filed say at Ex. 04 and I. O. has also filed say at Ex. 5. They have stated that the offence is of serious nature. The accused nos. 1 to 3 by pre-planning committed the offence. The present accused called the deceased at the spot and then all the accused committed the offence. The offence is committed in furtherance of common intention. The accused has cut injuries on his hand. The injuries may be caused by the seized weapon. If the accused is released on bail, he may threat the prosecution witnesses. Hence, they have prayed for rejection of bail application.

04] Heard the learned counsel for accused and learned APP. They have argued as per their stand taken. The counsel for the accused relied on the Bail Application Appeal before Hon'ble Supreme Court in *Nandu Singh vs. State of M. P.* decided in Criminal Appeal No. 285 of 2022, in Special Leave Petition Criminal No. 7998 of 2021 dtd. 25.02.2022, in the context that circumstantial evidence on record do not make a complete chain to dispel any hypothesis of innocence of the appellant and the evidence is weak, bail granted to the accused.

05] I have gone through application, say, arguments and police papers. There is strong prima-facie case against the accused. The accused is one of the preparator of the crime. He called the deceased at the spot. The other accused used deadly weapon and killed him. The present accused has also cut injuries on his hand. So, there is prima-facie involvement of the accused in the crime. Whether the cut injuries he received, were in protecting himself or in the assault will be decided at the time of trial. The eye witness Ashok Dhattrak has seen the two other accused and the present accused and the deceased at the spot. When, the two other accused were assaulting the deceased, Swapnil was also shouting. This witness had also seen all of them sitting there and drinking liquor prior to few hours of the incident. He has not seen the entire incident. No doubt, the investigation is completed. But, there is prima-facie involvement of the present accused in furtherance of common intention with the other accused. It appears that he was part of the plan to kill the deceased. The punishment of the offence is severe. If the accused is released on bail, he will threat the prosecution witnesses and will tamper the prosecution evidence. The cited case law filed by the counsel for the accused in **Nandu Singh (supra)** is not applicable to the facts and circumstances of the case. He is not entitled for bail.

Hence, the following order :

**ORDER**

Application is rejected.

Date : 10.03.2022

(R. R. Rathi)  
Additional Sessions Judge-5,  
Nashik.