

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

BAIL APPLICATION NO.1075 OF 2023

Yogesh Balkrishna Bhilare

...Applicant

Vs.

The State Of Maharashtra

...Respondent

Mr.Rahul K. Dhaygude, Advocate for Applicant.

Mrs. Anamika Malhotra, A.P.P for the State-Respondent.

I.O.Mr. Vishwajit B. Ghodake, Satara Taluka Police Station, present.

CORAM : PRAKASH D. NAIK, J.

RESERVED ON : 2nd May 2023

PRONOUNCED ON : 4th MAY, 2023

PC.

1. This is an application for bail. The applicant is arrested in connection with C.R. No.393 of 2018 registered with Satara Taluka Police Station for the offence under Sections 302, 364 and 201 read with Section 34 of the Indian Penal Code.

2. The case of the prosecution is that deceased Amit Bhosale and the applicant were close friends. The first informant is the brother of the deceased. According to him, in May 2018 the deceased had informed him that the applicant suspects that he is in illicit relation with his wife. The applicant had assaulted him. In June 2018 Amit Bhosale had called

complainant and informed him that the applicant told him that they should go out together to clear suspicion from mind of people about his relationship with applicant's wife. While they were proceeding on motorcycle, applicant had tried to kick him in front of truck. On 01st August 2018 the complainant received a call that Amit Bhosale (deceased) met with an accident. On inquiry, it was learnt that on 31.07.2018 at about 08:30 p.m. the applicant and his wife had visited study center where the deceased was preparing for competitive examination and the deceased had left with them. CCTV footage from the study center was verified and it was found that the applicant and his wife were seen, leaving together with deceased on motorcycle. Although, the applicant was close friend of the deceased, he did not attend his funeral. There were injuries found on the head of the deceased.

3. The applicant was arrested. Statements of witnesses were recorded. On completing investigation, charge-sheet was filed. The applicant had preferred application for bail before the Sessions Court, which has been rejected by order dated 30th January 2020.

4. This is the second application for bail before this Court. The previous application was rejected by this Court vide order dated 5th August 2021.

5. Learned Advocate for the Applicant submitted that, the applicant is in custody for a period about four years and nine months. There is no progress in the trial. The prosecution has cited about 45 witnesses. Although, charge is framed. No witness has been examined. The entire case is based on circumstantial evidence. The C.A. report does not support the prosecution case. Reliance is placed on the order passed by Apex Court in the case of *Balkrishna Tukaram Angre Vs. The State of Maharashtra* in *SLP (Crl.) No. 4369 of 2017* wherein, bail was granted to the accused on the ground that, he was in custody for fifteen months and that the case is based on circumstantial evidence. Reliance is also placed on the order dated 1st November 2018 passed by this Court in the case of *Nilesh Gangaram Godse Vs. The State of Maharashtra* in Criminal Bail Application No. 2302 of 2018 wherein, bail was granted to the accused considering that, the case is based on circumstantial evidence and the accused was in custody for substantial period of time.

6. Learned APP submitted that offence is of serious nature. The previous bail application has been rejected by this Court. There is no change in circumstance. Although, the prosecution has cited about 45 witnesses, during the trial the prosecution may not be examine all the witnesses.

Amongst the list of witnesses about 19 persons are the panch witnesses. Charge is framed. The trial would proceed.

7. Vide order dated 20th April 2023, the trial Court was requested to forward the report about the status of the trial. The learned Principle District and Sessions Judge, Satara has forwarded the report dated 29th April 2023 stating that, Advocate for the accused has filed application under Section 207 of Cr.P.C. and sought panchnamas of identification, copy of DVR of CCTV footage and statements under Section 164 of Cr.P.C. The said application is allowed. As per exh.71, compliance was not made by APP hence, matter is posted for evidence on 22nd May 2023.

8. It is noted that, the applicant is in custody from 5th August 2018. Case is based on circumstantial evidence. Charge is framed. The report of trial Court indicate that, case is posted for evidence on 22nd May 2023. Considering these circumstances, the trial can be expedited, with liberty to the applicant to apply for bail in the event the trial is not concluded within stipulated period.

ORDER

(i) Bail Application No.1075 of 2023 stands rejected.

(ii) Trial is expedited.

(iii) In the event, the trial is not concluded within a period of six months from the date of receipt of this Order, the applicant is at liberty to file fresh application for bail.

(iv) Registry is directed to communicate this Order to the trial Court immediately.

(PRAKASH D. NAIK, J.)