



PMB

18.BA.206-23.odt

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

BAIL APPLICATION NO.206 OF 2023

SWAPNIL YASHWANT PAWAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Ashwini Achari h/f Adv. Taraq Sayed a/w Adv. Alisha Parekh, Adv. Chaitali Kamble i/b. Adv. Ajay Dubey for the applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 25, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 302 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 37(1)(a), 135 of the Maharashtra Police Act registered on 20.06.2022 vide C.R. No.519 of 2022 with Tilak Nagar Police Station.

3. The date of the incident is 19.06.2022. There are in all two accused. The applicant is the accused no.2. The

applicant was arrested on 20.06.2022. It is alleged that on 19.06.2022 the accused No.1 committed the murder of his wife. The accused came on a motorcycle. The accused No.1 was riding the motorcycle. The accused No.2-applicant was a pillion rider. The applicant was holding a bag. After the accused No.1 stopped the bike, he took the bag from the present applicant. The accused No.1 proceeded towards the shop where his wife was sitting. The applicant was standing near the motorcycle. The accused No.1 is alleged to have stabbed his wife. The wife of accused No.1 succumbed to the injury. The accused No.1 thereafter ran towards the motorcycle where the applicant was waiting. The accused surrendered to the police.

4. Learned APP opposed the application for bail. It is the contention of learned APP that the applicant was actively involved in the offence. It is submitted that it is the applicant who was carrying the bag containing the knife and therefore, it is evident that the applicant was well aware of the intention of the accused No.1 to commit the murder.

5. I find that though the applicant was present near the scene of offence, no overt act is attributed to him. The recovery is from the accused No.1. The question whether the applicant shared a common intention with the accused No.2 to commit the murder of the victim will be a subject matter of trial. The applicant is in custody for more than one year and three months. The trial is likely to take a long time to conclude. Learned counsel for the applicant states that there are no criminal antecedents reported against the applicant. In the facts and circumstances of the present case, the applicant can be enlarged on bail. The applicant himself had surrendered. He does not appear to be a flight risk. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Swapnil Yashwant Pawar in connection with C.R. No.519 of 2022 registered with Tilak Nagar Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Tilak Nagar Police Station, Mumbai once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(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 him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly.

6. The application is disposed of.

(M. S. KARNIK, J.)