

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

**CRIMINAL BAIL APPLICATION NO. 363 OF 2022**

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Prashant Rajesh Katkar And Anr.

...Applicants

Versus

State Of Maharashtra And Anr.

...Respondents

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Mr. Kamlesh Kumar Dubey for the Applicants.

Ms. Pallavi N. Dabholkar, APP, for the Respondent-State.

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**CORAM : G. A. SANAP, J.**

**DATE : 1<sup>st</sup> NOVEMBER, 2023.**

**P.C. :**

1. The Applicants who are arraigned as Accused Nos. 4 and 5 in C. R. No. 763 of 2020 registered with Tulinj Police Station, District – Palghar for the offences punishable under Sections 302, 364, 143, 147, 148 and 149 of the Indian Penal Code, 1860 (for short “IPC”) and Sections 3, 25 of the Arms Act, 1959, have applied for bail.

2. The learned Advocate for the Accused submitted that the

Accused No.1, who according to the prosecution has played the prominent role in the crime has been granted bail by this Court (Coram: Bharati Dangre, J) vide order dated 6<sup>th</sup> October, 2022. The learned Advocate submitted that, on the ground of parity the Accused Nos. 4 and 5 are entitled to get bail. The learned advocate submitted that there was no recovery of any article or weapon at the instance of the Accused Nos. 4 and 5. The learned Advocate further pointed out that, the main witnesses of the prosecution have not identified the Accused Nos. 4 and 5 at the time of T.I. Parade. The learned Advocate pointed out that there is no evidence against the Accused. The learned Advocate submitted that in the teeth of the material against the Accused Nos. 4 and 5, their further incarceration are not necessary. The learned Advocate submitted that, the accused are ready to abide by the conditions that may be imposed by the Court.

3. Learned APP submitted that there are statements of witnesses, who have seen the deceased being attacked and made to sit in the Auto Rickshaw of the Accused No.1. The learned APP submitted that, the evidence on record reveals that the Accused Nos. 4 and 5 were part of the group, which had abducted the deceased. Learned

APP further submitted that considering the vulnerability of the prosecution witnesses, possibility of tampering with the prosecution evidence cannot be ruled out.

4. I have gone through the record and proceedings. Undisputedly the names of the Accused Nos.4 and 5 were not mentioned in the FIR. It can be seen on perusal of the record that the deceased and the Accused No.1 were not on good terms. It is the case of the prosecution that the informant Ms. Kajal is a transgender and she was residing with the deceased in live-in-relationship. It is further case of the prosecution that, there was some animosity between Deepak and deceased. After murder of the deceased, the informant had strong suspicion about the murder of the deceased by Deepak and his companions.

5. As far as the Accused Nos.4 and 5 are concerned at the time of their T.I. Parade, the main witnesses of the prosecution did not identified them. The main Accused whose name has been stated in the FIR and he had motive as per the case of prosecution has been released on bail. The ground of parity is available to these accused. In

my view, considering the facts and circumstances and the evidence compiled in the charge-sheet, it would be just and proper to enlarge the Accused Nos. 4 and 5 on bail.

6. In my view, in the teeth of the above stated facts, their further incarceration may not be necessary and warranted. The apprehension expressed by the learned APP can be taken care by imposing appropriate conditions. Hence the following order.

#### **ORDER**

- i. Accordingly the application is allowed.
- ii. Applicant No.1-Prashant Rajesh Katkar and Applicant No.2-Pranay Rajesh Katkar, be released on bail in connection with C. R. No. 763 of 2020 registered with Tulinj Police Station on furnishing P. R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- iii. The Applicants 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 Applicants shall not tamper with evidence.

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

(G. A. SANAP, J.)