

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1235 OF 2022***

Jaiprakash Mangru Chouhan	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Hakim Salim AR, for the Applicant.
Ms. P. P. Shinde, A.P.P for the Respondent – State.
Police Sub-Inspector – Yogesh S. Pisal, Kasarwadavali Police Station,
Thane City, is present.

CORAM : REVATI MOHITE DERE , J.

DATE : 19th AUGUST 2023

P.C. :

1. This is the second bail application preferred by the applicant seeking his enlargement on bail in connection with C.R. No.I-234 of 2017 registered with the Kasarwadavali Police Station, Thane City, for the alleged offences punishable under Sections 302, 120B, 201 of the Indian Penal Code.

2. The applicant's first bail application was rejected on merits vide order dated 18th September 2019 passed in Criminal Bail Application No.1675 of 2019. Although the bail application was

rejected, the trial of the applicant was expedited vide the said order.

3. Vide order dated 25th January 2023 passed in the aforesaid application, the learned Sessions Judge, Thane, before whom the Sessions Case being Sessions Case No.198 of 2018 was pending, was directed to submit his report, stating the reasons for the delay in commencement of the trial, despite the trial being expedited. Pursuant thereto, the learned District Judge-2 and Additional Sessions Judge, Thane, submitted his report dated 9th February 2023 stating therein the reasons why the trial could not commence. Some of the reasons are that there are several Regular and Anticipatory Bail Applications pending; urgent civil matters; expedited matters by the High Court and about 30 time bound matters by the orders of the Apex Court and this Court; that some of the MCOCA cases, which have been expedited are bulky and that there is one case which is going on day-day-basis. It was further observed that the order dated 18th September 2019 passed by this Court was not brought to his notice either by the prosecutor or by the Advocate for the accused.

4. Learned counsel for the applicant has filed an affidavit-cum-undertaking of the applicant stating therein that he will be co-operate in the conduct of the trial and remain present before the learned Sessions Judge on all dates, till the conclusion of the trial. He has further stated in his affidavit-cum-undertaking that if he remain absent on any court date after being enlarged on bail, his bail may be cancelled. The said affidavit-cum-undertaking is dated 17th March 2023 duly affirmed before the Superintendent, Thane Central Prison, Thane.

5. The prosecution case rests essentially on circumstantial evidence. According to the prosecution, the incident took place on 18th November 2017 at about 5:19 a.m. when deceased – Ramji Sharma had gone for his morning walk. It is the prosecution case, that deceased – Ramji was in a relationship with co-accused – Sumari Yadav, who was also having relations with the applicant, which was not liked by the deceased. It is alleged that pursuant thereto, the accused i.e. the applicant and co-accused – Sumari entered into a conspiracy to kill the

deceased – Ramji. It is further alleged by the prosecution, that on 18th November 2017, when Ramji had gone for his morning walk, the applicant who was driving a vehicle, intentionally dashed into the deceased, as a result of which, Ramji succumbed to the injuries. According to the applicant, it was a case of accident and not a homicide. It appears that the circumstances relied upon by the prosecution are in the nature of CDR records, the statement of the witnesses; the statement of one Dharmendra Chauhan, the owner of the car, who had given the said car to the applicant for driving the same and that after the incident, the car was found to be damaged.

6. Although, two witnesses have been examined till date, it appears that the prosecution intends to examine about 30 more witnesses and as such the trial is likely to take some time. The applicant is in custody since November 2017.

7. Considering the aforesaid and in particular the affidavit-cum-undertaking is dated 17th March 2023, the application is allowed

and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 1:00 p.m. till the conclusion of the trial;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of

the concerned Police Station;

(v) The applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. Learned counsel for the applicant to place a copy of the affidavit-cum-undertaking filed by the applicant in this Court before the learned Sessions Judge, who is seized of the case.

9. The application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE , J.