

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.970 OF 2023

Santosh Ram Murat Yadav .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Anand Pande for the Applicant.
Mr.S.R.Agarkar, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 08th SEPTEMBER, 2023

P.C:-

1. This is a second bail application filed by the Applicant, seeking his release on bail and it must be noted that on 13/10/2022, the earlier application was disposed off as withdrawn, when I expressed my disinclination to entertain the same.

2. The change in circumstance, which is projected is, the further incarceration of the Applicant, who came to be arrested in the subject C.R. since 18/01/2021, where he face accusation under Section 302 read with Section 34 of the Indian Penal Code.

It is settled position of law that repeated bail applications are not liable to be entertained, unless there is some change in

the existing circumstances, and merely because the trial is at standstill and has not progressed, in my considered opinion, cannot amount to change in the circumstance.

It is well-known position about the pendency of trial, with no certainty being expressed as to when the same shall conclude, and hence, the fact that the Applicant is incarcerated for last two years cannot be a ground to release him on bail.

3. As far as merits are concerned, the material compiled in the charge-sheet, on investigation of the F.I.R. lodged by the Informant, reveal that the deceased Suresh, had borrowed money from the father of the Applicant, Ram Murat Yadav on a promise to resolve the ongoing litigation between him and one Vikram Khan. But, he could not resolve the same and, hence, the money was being sought to be returned.

The prosecution case, which surfaced through the charge-sheet, reveal that in October 2020, the Applicant had accompanied his father to demand the money and the verbal altercation had ensued, but the money was not paid back.

The charge-sheet include the statement of one Smt.Indra Mali, who reside in the neighbourhood of the deceased and on 17/01/2021 at around 8.00 p.m., when she was cooking the food in her house, she could hear lot of hue and cry from the house of Suresh Vishwakarma and when she came out of the house, she could notice Ram Murat Yadav talking on mobile. She knew Ram Murat Yadav, since he was running a flour-mill in the neighbourhood and it is her version that he banged the

door of Suresh's house and was repeatedly asking Ashish and Sunil to open the door. The door was opened and Suresh Vishwakarma was on underwear and two sons of Ram Murat Yadav, namely, Ashish and Sunil brought him out of house, in an unconscious condition.

4. The learned counsel for the Applicant has attempted to canvass that Smt. Indra has referred to Ashish and Sunil, but the present Applicant is Santosh. This aspect need not be focused upon, since the material in the charge-sheet clearly reveal that reference to the sons of Ram Murat Yadav clearly lead to an inference that one of his son, who is Santosh, was present in the house of the deceased on the said date. Several witnesses, whose statements are compiled in the charge-sheet, point out that it is the present Applicant, who had assaulted the deceased and the statements are to the effect that the two persons are responsible for such assault and they were identified as Santosh Yadav and Ashish Yadav.

5. The postmortem report has ascertained the cause of death as, "Death due to hemorrhage and shock due to injury to the vital organs (Unnatural)", and Column No.17 has referred to the injuries.

The material in the charge-sheet clearly attribute the injuries to the Applicant alongwith his brother Ashish Yadav. The Applicant is referred in the charge-sheet as Santosh Ram Murat Yadav.

In the wake of the material compiled in the charge-sheet, which clearly indicate his involvement in the offence of murder, he do not deserve his release on bail and shall face the trail, being in Judicial Custody.

The Application is rejected.

(SMT. BHARATI DANGRE, J.)