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

BAIL APPLICATION NO. 1473 OF 2022

Kiran Tanaji Yashvantrao ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. R.B. Patil i/b Mr. B.R. Patil, for the Applicant.
Mr. S. H. Yadav, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 25, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** This is an application for bail in respect of C.R.No. I-495/2016 of 2016 dated 30/09/2016 registered with Manpada Police Station, Dombivli for the offence punishable under sections 302, 392, 449 of the Indian Penal Code, 1860.
- 3.** The applicant was arrested on 30/09/2016. The applicant is in custody for more than 6 years and 4 months.

The charge-sheet has been filed. The investigation is complete. The applicant had approached this Court by filing an application for bail bearing no. 1530 of 2017 on the earlier occasion. By an order dated 01/09/2017, the application was allowed to be withdrawn. The trial of the applicant was expedited. I have gone through the report dated 25/11/2022 of the Sessions Court. Only the charge has been framed so far. The trial is not protracted because of the applicant. The applicant is not responsible for protracting the trial.

4. Considering the long incarceration and the fact that despite the trial being expedited, the trial will still take long time to conclude, I am inclined to release the applicant on bail. Apart from this, I find that the case is based on the circumstantial evidence. It is alleged by the prosecution that the deceased Nilesh was the cousin brother of the applicant. In the night of 28/09/2016 and 29/09/2016, the applicant and the deceased were drinking. It is alleged that the deceased used some words thereby badmouthing the cousin sister of the applicant. The applicant was angry

because of these utterances of the deceased and therefore used a gas cylinder in the house to kill the deceased. What is recovered from the applicant is a gold chain of 9 grams, mobile phone without sim card and a key of the house. It is alleged that the said articles were taken away by the applicant to make a show that the robbery is the motive. Considering the nature of the materials and that the case entirely rests on the circumstantial evidence, the right of the applicant for speedy trial will have to be balanced with the seriousness of the accusations. The trial could not be concluded despite the order passed as far back as on 01/09/2017 expediting the trial. There are no criminal antecedents reported against the applicant. Hence, the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant–Kiran Tanaji Yashvantrao in connection with C.R.No. I-495/2016 of 2016 dated 30/09/2016 registered with Manpada Police Station, Dombivli shall be released on bail on furnishing P.R.

bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change

(f) The applicant shall attend the trial regularly.

5. The application is disposed of.

(M. S. KARNIK, J.)