



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

BAIL APPLICATION NO. 1495 OF 2023

PRAMOD BAPU KAMTANURE	..APPLICANT
VS.	
STATE OF MAHARASHTRA	..RESPONDENT

Mr. Vishal Jain, for the applicant.
Ms. Veera Shinde, APP for the State.
PSI-Mr.Sardar Patil, Sawantwadi Police Station, Sindhudurg present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 09, 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, 394, 396, 201, 411, 120B of the Indian Penal Code, 1860 registered vide C.R. No.183 of 2018 with Sawantwadi Police Station.
- 3.** This is the application through jail. Learned counsel was appointed by Legal Aid Services to represent the applicant.
- 4.** Learned APP opposed the application for bail. My attention is

invited to the order dated 09/07/2020 passed by the Sessions Court, Sindhudurg enlarging the co-accused no.3-Raj Jahangir Kolar. I am referring the relevant portion of the said order as under:

“02. Background of this bail application in short is as under:

FIR came to be lodged by Abdul Rauf Esak Mulla, owner of truck with allegation that, Truck bearing registration No.KA-22/B-8526 was being proceeded carrying 25 tone sugar (500 bags each of 5 kg.) from Jawahar Shetkari Sahakari Sakhar Karkhana, Hupari to Kerala. Rajanikant Ganpati Mane was driver and cleaner of said truck. On the way some unknown persons committed his murder by strangulation and stolen away said truck alongwith loaded sugar. During investigation, the present applicant/accused is arrested and it is revealed in investigation that accused Nos.1 to 6 conspired with accused Nos.7 and 8 and murdered Rajanikant Mane. It is also alleged by prosecution that, the stolen sugar sold to accused Nos.7 and 8. Hence, this application.

08. Perused bail application and say filed by Investigating officer as well as Ld. APP. Perused the papers in charge-sheet including FIR. I have gone through the statement of witnesses Vicky Bhopale, Suraj Sontakke and Sourabh in which there is mere statement to suggest that, present applicant is friend of accused No.1 and also seen near Sugar Factory. Admittedly this is not sufficient to come to the conclusion prima facie that, applicant/accused is also involved in the crime. It is also settled law that mere statement of co-accused is not admissible in evidence. Admittedly as observed by the Hon'ble High Court that prima facie no inference can be drawn that applicant conspired to commit robbery and murder on the basis of mere call record Ld.PP failed to show any other admissible evidence against present applicant/accused. Applicant is behind bar since 25/10/2018 and can not be kept behind bars for indefinite period only on the basis of the mere above stated circumstantial evidence. So, considering all facts and circumstances, I am of the view, applicant is entitled for bail.”

5. The case is completely based on circumstantial evidence. The role of the present applicant appears to be similar with that of the co-

accused no.3 who has been enlarged on bail. Learned APP submitted that the offence is serious in nature and the tommy with which the deceased is alleged to have been killed is recovered and it is not having blood stains. Furthermore, the applicant was arrested on 01/11/2018 and is now in custody almost for a period of 5 years. Though trial has been commenced, only 3 witnesses have been examined. The prosecution proposes to examine 60 witness. Learned APP submits that it is not as if all the witnesses will be examined. Nonetheless as situation stands, it appears that the trial is likely to take a long time to conclude. There is a criminal antecedent reported against the applicant under section 307 of IPC in which the applicant has been enlarged on bail. Considering the fact that the applicant is in custody as an under trial almost for 5 years, and as the co-accused having similar role is enlarged on bail, in the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail by imposing stringent condition. The investigation is complete. The charge-sheet has been filed. Hence, the following order :-

ORDER

- (a) The application is allowed.

(b) The applicant- Pramod Bapu Kamtanure in connection with C.R. No. 183 of 2018 registered with Sawantwadi 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 shall attend the investigating officer of Sawantwadi police station on every alternate Saturday of the month between 10.00 a.m. and 12.00 noon.

(d) 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.

(e) 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.

(f) The applicant shall not leave the State of Maharashtra without leave of the trial Court.

(g) The applicant shall attend the trial regularly.

(h) The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

7. I appreciate the valuable assistance rendered by Mr.Vishal Jain, learned Advocate, who appeared on behalf of the applicant in this proceeding.

(M. S. KARNIK, J.)