



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

BAIL APPLICATION NO. 2462 OF 2022

Sachin Sarjerao Patil

Age : 25 Years, Occu. : Business,

R/at : Shari Manik Patil Bungalow,

Vijay Garden, Godbunder Road,

District : Thane (W), Maharashtra.

...Applicant

vs.

The State of Maharashtra

[Through Kasarvadawali Police Station

in C.R. No. 239 of 2020]

...Respondent

**ALONG WITH
BAIL APPLICATION NO. 2291 OF 2022**

Gaurav Rajesh Singh

Age : 28 Years, Occu. : Nil,

Address : Azadnagar Zopatpatti,

Near Shilpa Sonvane's House,

Rakesh Singh's Room, Brahmand,

G.B.Road.

...Applicant

vs.

State of Maharashtra

[Through Kasarvadawali Police Station

in C.R. No. 239 of 2020]

...Respondent

**WITH
INTERIM APPLICATION NO. 2226 OF 2023
IN
BAIL APPLICATION NO. 2291 OF 2022**

Kavisha Rakesh Patil

Age : 32 Years, Occu. : Household,

Satish Sangar

R/at : Sai Shrushti Building,
301, Ghodbandar Road, Waghbil
Gaon, Thane.

...Intervenor

In the matter between

Gaurav Rajesh Singh

...Applicant

vs.

State of Maharashtra

...Respondent

Mr.Suhas Oak a/w Mr.Vinod Utekar–Advocates for Applicant in Bail
Application No.2462 of 2022.

Mr.Santosh Pawar–Advocate for Applicant in Bail Application
No.2291 of 2022.

Mr.Dilip B. Shinde–Advocate for Intervenor in Interim Application
No.2226 of 2023.

Mr.S.R.Agarkar–APP for Respondent–State.

CORAM : S. M. MODAK, J.

DATED : 11TH AUGUST 2023

P. C. :

1. Heard learned Advocate Shri.Suhas Oak for Applicant – Sachin Sarjerao Patil in Bail Application No.2462 of 2022 and heard learned Advocate Shri.Santosh Pawar for Applicant – Gaurav Rajesh Singh in Bail Application No.2291 of 2022. Also heard learned Advocate Shri.Dilip Shinde for Intervenor – wife of the deceased and learned APP Shri.Agarkar.

Satish Sangar

2. Manik Babu Patil married with one Prabhavati and deceased Rakesh Patil is a son born out of said wedlock. He also cohabitated with one Sangita Patil. Lastly, he cohabitated with one Sangita Sarjerao Patil. The Applicant Sachin is the son of said Sangita Patil born from Sarjerao Patil. There was a property dispute in between father Manik Patil on one hand, deceased Rakesh on the other hand and said Sachin on third hand. The deceased Rakesh apprehends that his father Manik is going to give all property to said Sachin. Whereas, said Sachin apprehends that Manik is going to give all property to son Rakesh. There are statements of witnesses suggesting of that property dispute and soured relationship in between the parties.

3. The Applicant – Sachin along with his mother Sangita Sarjerao Patil used to reside at Manik Patil's bungalow Vijay Garden – Thane. The deceased Rakesh along with his wife sometimes resided in that bungalow, sometime outside and again stayed in that bungalow. On 15th September, 2020, Manik Patil was admitted in Bethani Hospital, Vartaknagar, Thane. He was having one locker in his bedroom on the ground floor of the bungalow. Sangita used to stay in the hospital itself. Whereas, son Rakesh, his wife and Applicant – Sachin

used to take tiffin to the hospital.

4. When Manik Patil was discharged and he returned to the bungalow, he noticed that he was unable to open the locker and the locker was closed by inserting nails and m-seal. He realized that his golden ornaments were missing. He lodged the complaint with Kasarvadawali Police Station on 23rd September, 2020 under Section 380 of Indian Penal Code, 1860 [“IPC”] against the deceased Rakesh Patil (Page No.96 of Bail Application No.2462 of 2022). He also realized that Rakesh is not traceable since 20th September, 2020. Kavisha Patil – wife of the deceased Rakesh also informed to Kasarvadawali Police Station about deceased not traceable since morning of 20th September, 2020. The missing complaint is on Page No.89 of the said Application. On 19th September, 2020, the deceased Rakesh stayed in the bungalow. He went there due to the illness of his father. He along with the Applicant – Sachin and Applicant – Gaurav all stayed there. Applicant – Gaurav is a driver of Manik Patil. The car is of Nissan Company bearing MH 04 CA 4499. Initially, the deceased Rakesh was using that car and recently, the Applicant – Sachin was using that car.

5. During the enquiry of missing complaint, Police realized that

Rakesh was not untraceable but in fact, he was murdered. He was murdered by these two Applicants. Accordingly, an FIR is registered by Assistant Sub Inspector – Sagar Jadhav on 23rd September, 2020 for the offences punishable under Sections 302, 201 read with 34 of IPC and under Section 3 read with 25 of the Arms Act, 1959. The Applicant – Gaurav and Applicant – Sachin came to be arrested on 23rd September, 2020 and 26th September, 2020.

6. Learned APP and learned Advocate Shri.Shinde pointed out the following materials showing the involvement of these Applicants :-

- (a) Statement of witnesses including Manik Patil, Kavisha Patil - wife of the deceased on the point of relationship and property dispute and how there was a motive for Applicant – Sachin to eliminate Rakesh with the help of Applicant – Gaurav. Spot panchnama i.e. ground floor of the Manik Patil bungalow wherein the deceased was murdered by firing a bullet. (Page No.98), nothing objectionable was found at the spot. (except two napkins).
- (b) The arrest panchnama of Applicant–Gaurav, one samsung mobile phone was seized. (Page No.108).
- (c) Seizure panchnama of the activa scooty from Applicant– Gaurav on 24th September, 2020 (Page No.111). This belongs to the deceased.
- (d) Seizure of clothes worn by the Applicant – Gaurav as per the memorandum statement dated 25th September, 2020. (Page No.114).

- (e) C.C.T.V, footage panchnama dated 25th September, 2020 wherein white colour Nissan car is seen at Vash Toll Naka bearing MH 05 CA 4499 and the Applicant Sachin is seen as a car driver wearing mask. This was identified by Kavisha – wife of the deceased.(Page No.124).
- (f) House search panchnama belonging to Applicant – Sachin dated 26th September, 2020. (Page No.136). In all 35 ornaments and cash was seized. These ornaments belong to Manik Patil.
- (g) Panchnama about valuation of the ornaments. (Page No.143). Ornaments costing Rs.2,53,15,350/-.
- (h) Arrest panchnama of the Applicant – Sachin Patil dated 26th September, 2020 (Page No.196).
- (i) Memorandum panchnama of the Applicant – Gaurav Singh dated 29th September, 2020 wherein he has shown the place where two pieces of broken number plate of scooty was concealed.
- (j) Memorandum panchnama given by the Applicant – Sachin thereby showing the place of concealment of iron pistol, one live cartridge and one empty cartridge.
- (k) Memorandum panchnama dated 28th September, 2020 wherein the Applicant – Sachin has shown the place from where dead body was thrown from the bridge on road going from Vashi to Mumbai after crossing the toll naka.
- (l) Memorandum panchnama dated 5th October, 2020 (Page No.214) wherein the Applicant – Sachin has

produced the cloths, key of Nissan car and the car and samsung mobile.

- (m) A statement of one Kum.Durga Santosh Wagh dated 7th October, 2020 (Page No.235) ; Statement of Ajay Anil Dhotre of same date (Page No.238) and of Avinash Narayan Dhokare of the same date (Page No.240).

7. On the basis of above materials, both the learned Advocates made following submissions :-

- (a) Dead body was not found. Accordingly, cause of death is not ascertained.
- (b) No report of ballistic on the point of pistol is produced in order to show that pistol was used for firing.
- (c) Spot panchnama of the bungalow does not suggest any material to show that the deceased Rakesh was murdered there.
- (d) There is no evidence to suggest that the Applicant Gaurav was found in possession of scooty. That the deceased Rakesh went on that scooty on 28th September, 2020 at about 7.30 a.m. This was told to Kavisha – wife of the deceased by Applicant – Sachin.
- (e) Even though there is allegation that the dead body was carried from the Nissan motorcar and thrown from a bridge, nothing objectionable was found in that Nissan motorcar.
- (f) The FIR lodged by PSI – Jadhav was on the basis of suspicion but no corroborating materials could be collected.
- (g) Even though, ornaments were found in the house

of Applicant – Sachin, at the most, there is evidence of commission of theft but not the murder.

- (h) Even though broken pieces of number plate of the scooty were produced by the Applicant – Gaurav, there are no statements by witnesses which suggest that he has broken that number plate. At the most, it can be said that the Applicant – Sachin was in possession of Nissan car but by no stretch of interpretation, it can be said that he has carried on the dead body in that car.
- (i) The statements of Kum.Durga Santosh Wagh, Ajay Anil Dhotre and Avinash Narayan Dhokare were recorded after a gap of almost 15 days from the date of incident. They are the friends of Applicant – Sachin and Sachin has confessed about committing a murder of Rakesh along with the help of Applicant – Gaurav. According to both the learned Advocates, it may fall within a purview of '*extra judicial confession*' but it is a weak piece of evidence and there is no corroboration.

8. After considering the above materials, we can say that arrest of both the Accused is certainly justified. The Applicant – Sachin is connected to that Nissan car and he has produced it. He was connected to pistol and empty and live cartridges. So also, Applicant – Gaurav is connected to the scooty belonging to the deceased and he is connected to seizure of broken pieces of number plate of that scooty. No doubt, there is a motive for a murder. Rakesh is one of the

claimants of the property. Though Applicant – Sachin is not relative to deceased by blood, he was staying in the bungalow along with his mother and he was one of the claimants in the property of Manik. Applicant – Gaurav was driver of Manik and as such, he knows the deceased – Rakesh as well as Applicant – Sachin. Last circumstance is of performing '*lie detector test*'. Learned APP read over the questions put to both the Applicants. Applicant – Sachin admitted of murdering Rakesh with the help of Applicant – Gaurav. However, according to him, Applicant – Gaurav has not helped him in committing the murder. Whereas, Applicant – Gaurav has given all negative answers to the questions put to him in the test. This '*lie detector test*' is for the purpose of confirmation of the line of investigation. No doubt, the Investigating Agency has done their level best to collect materials showing involvement of both the Applicants.

9. Charge is framed. The grievance is raised that both the Applicants have not engaged Advocates for conducting the trial. Considering the above submissions, I am inclined to grant them bail. One does not know how much time it will take for trial to be completed. They can be put to strict conditions. Hence, order :-

O R D E R

- (i) Applications are allowed.
- (ii) Applicants viz., (i) Sachin Sarjerao Patil and (ii) Gaurav Rajesh Singh be released on bail in connection with C.R. No. 239 of 2020 registered with Kasarvadawali Police Station – District Thane City for the offences punishable under Sections 302, 201 read with 34 of IPC and under Section 3 read with 25 of the Arms Act, on furnishing personal bond and surety bond of Rs.1,00,000/- each.
- (iii) Applicants are directed to attend Kasarvadawali Police Station on second Monday of every month from 10.00 to 12.00 till completion of trial.
- (iv) Applicants not to threaten the Prosecution witnesses or to allure them in any manner.
- (v) In case of breach of any of the conditions, the bail of the Applicants is liable to be cancelled after notice.

10. These are my prima facie observations. Let the learned trial Court need not be influenced by them.

11. Applications are disposed of in the aforesaid terms.

12. In view of the above, Interim Application is also disposed of.

13. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]