



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

BAIL APPLICATION NO. 2324 OF 2023

MUKESH GANPAT NIMASE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Adv. S.T. Pandey a/w Adv. Kajal Upadhyay a/w Adv. Anima Mishra a/w Adv. Anuj Singh a/w Adv. Ritu Singh a/w. Adv. Nagesh Avhad i/b SBG Law for the Applicant.

Mr. Y.Y. Dabke, APP for the State.

PSI R.K. Talekar, Kinhavali Police Station, Thane.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 18, 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 and 397 of the Indian Penal Code registered on 09/08/2017 vide C.R. No. 58 of 2017 with Kinhavali Police Station, Thane.
- 3.** Learned APP invited my attention to the order dated 16/11/2021 passed by this Court in an earlier bail

application of the applicant bearing Bail Application No. 1906 of 2021. The relevant portion of the order reads thus:

"4] At the outset, learned APP informs that trial has already advanced and is likely to be concluded in recent future as only two witnesses are remained to be examined. Applicant is charged with an offence punishable under Section 302 of the Indian Penal Code.

5] Perusal of material available on record depicts that applicant is prima facie involved in the offence in question. Apart from above, it can be noticed from the charge-sheet that articles of deceased were recovered from the custody of the applicant which is sufficient to infer prima facie involvement of the applicant in the crime in question.

6] No case for bail is made out. Application stands rejected."

Learned APP further submitted that the present application be dismissed.

4. Considering that this Court has already indicated *prima facie* involvement of the applicant in the offence in question, it is not possible for me to express any opinion on the merits of the submissions advanced by learned counsel for the applicant.

5. It needs to be noticed from paragraph No.4 of the order that this Court relied on the submission of the learned APP that the trial has already advanced and is likely to be

concluded in the near future as only two witnesses have remained to be examined.

6. I am informed that the trial has not progressed. Learned APP submitted that the prosecution proposes to examine 4 to 5 witnesses. The applicant is in custody since 15/08/2017 i.e. for more than 6 years and 3 months. In such view of the matter, as there are no criminal antecedents reported against the applicant, I am inclined to enlarge the applicant on bail in view of the long incarceration of the applicant, subject to stringent conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mukesh Ganpat Nimase in connection with C.R. No. 58 of 2017 registered with Kinhavali Police Station shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 15,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating

Officer of Kinhavali police station twice a month, first and third Sunday of the month, between 11.00 a.m. and 1.00 p.m.

(e) 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.

(f) 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.

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

(h) The applicant shall not leave the state of Maharashtra without prior permission of the trial Court.

7. The application is disposed of.

(M. S. KARNIK, J.)