



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

BAIL APPLICATION NO. 3970 OF 2023

DHAN PATHANI KAMI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Mr. Salman K. Pathani a/w Mr. Aftab A.Khan, for the Applicant.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 14, 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, 201 read with 34 of the Indian Penal Code, 1860 registered on 12/08/2018 vide C.R. No.542 of 2018 with Nigadi police station.
3. There are in all 3 accused. The applicant is the accused no. 1. The applicant was arrested on 12/08/2018.
4. The order dated 08/11/2023 passed by this Court in Bail Application No. 3246 of 2023 enlarging the co-accused no.3 - Pooja Ramsingh Dhakalwar will substantially cover

the present application as well. The relevant portion is reproduced which reads thus :

“2. This is an application for bail in respect of the offence punishable under Sections 302, 201 of the Indian Penal Code registered on 12/08/2018 vide C.R. No.531 of 2018 with Nigadi Police Station, Pune.

3. The accusations of the prosecution are that the present applicant who is accused No.3 had illicit relations with accused No.1. The applicant also had illicit relations with the deceased. It is the allegation of the prosecution that accused Nos. 1 to 3 have killed the deceased as per the confessional statement of the applicant which the learned counsel for the applicant says is not admissible.

4. Learned APP opposed the application and submitted that there is ample material on record to show the applicant's involvement in committing the murder of the deceased. The circumstance relied upon is last seen statement of a witness. It is further submitted that the trial has commenced and 2 witnesses have already been examined and the prosecution proposes to examine only 15 more witnesses. Therefore, the learned APP requested to expedite the trial instead of enlarging the applicant on bail.

5. The applicant was arrested on 12/08/2018 and is incarcerated for more than 5 years. There are no criminal antecedents recorded against the applicant. The case rests entirely on circumstantial evidence. Though the trial has commenced, the same will take some time to conclude. The applicant will face the consequences post-trial if found guilty. On the ground of long incarceration and the fact that the applicant is a woman, I am inclined to enlarge the applicant on bail.”

5. Learned APP opposed the application

6. The applicant is the accused no.1 who it is alleged had illicit relations with the accused no.3. The prosecution

case is that the accused no.3 also had illicit relations with the deceased. Considering that the case is based on the circumstantial evidence and the applicant is in custody for more than 5 years with no possibility of the trial concluding any time soon, the applicant can be enlarged on bail. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant.

7. Learned APP submits that the trial has commenced. However, I do not find that the applicant is a flight risk or there is any possibility of evading trial. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Dhan Pathani Kami in connection with C.R. No.531 of 2018 registered with Nigadi 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 is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the investigating

officer of Nigadi police station twice a month on first and third Tuesday of every month, between 11.00 a.m. and 1.00 p.m. commencing from January 2024.

(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 her 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 every date of the trial . The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport to the investigating officer. If the applicant does not have passport, he shall file the affidavit to that effect.

(i) The applicant shall not leave Pune district without permission of the trial Court.

8. The application is disposed of.

(M. S. KARNIK, J.)