



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1364 OF 2024

Gangaram Bapu Pawar

...Applicant

Versus

1. The State of Maharashtra,
through Superintendent of Police
Osmanabad.

2. The Shiradhon Police Station Shiradhon,
through Its Police Inspector Police Station,
Shiradhon, Taluka Kallamb,
District Osmanabad.

...Respondents

WITH
BAIL APPLICATION NO.1495 OF 2024

Suraj Rajendra Pawar

...Applicant

Versus

1. The State of Maharashtra,
through Superintendent of Police
Osmanabad.

2. The Shiradhon Police Station Shiradhon,
through Its Police Inspector Police Station,
Shiradhon, Taluka Kallamb,
District Osmanabad.

...Respondents

Adv. Shivprasad G. Jadhavar for Applicant.

Mr. V. S. Badakh, APP for Respondent-State.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 22nd NOVEMBER 2024.

P.C.:-

1. The Applicants in both the applications seeks regular bail in connection with Crime No.93 of 2023, registered with Shiradhon Police Station, District Osmanabad for offences punishable under Sections 302, 364, 324, 323, 452, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code, 1860. The investigation was set in motion on the basis of information given by Mrs. Ashabai Mahadev Kale alleging that on 8th June 2023, while she was at home along with her husband and sitting on a platform in front of her home, suddenly the accused Vikas Kale, Suraj Pawar, Gangaram Pawar, Bablu Pawar, Bappa @ Khaja Ramraje Pawar and other three persons rushed to the spot in a Scorpio. They alighted from the vehicle caught hold her husband and dragged him inside the house. They barged into the room and assaulted her husband, she made attempt to rescue him, however, accused person continued assault on her husband by kicks and fist blows. Thereafter, they dragged him from the vehicle. Immediately, she reported the incident to police. Later on the dead body of her husband found near Mangrul bus stop. Consequently, Crime No.93 of 2023 registered against six named and three unnamed persons. The Applicants have been arrested in pursuance of the aforesaid crime. The investigation progressed and charge-sheet has been filed.

2. Mr. Jadhavar, learned Advocate for the Applicants submits that although Applicants have been named in the FIR, no specific role

has been attributed against them. The Applicants have been arrested in month of July 2023, since then they are behind bars. Till this date, charge is not framed, the trial would take its own course. This Court has been pleased to grant bail to co-accused Vikas Bablu kale, Suraj Rajendra Pawar, Gangaram Babu Pawar, Bablu Rajendra Pawar, Bappa @ Khaja Ramraje Pawar. The role of the Applicants is similar to those accused, who are already enlarge on bail, therefore, he submits that even by applying principle of parity, the Applicants deserve to be released on bail.

3. Learned APP strongly opposes the prayer in the application. He would submit that it is a case of brutal murder. The Applicants have been named in the FIR. The statement of eye witness namely Sardar Uttamrao Chavan also states about the involvement of the Applicants in commission of offence. According to him, *prima-facie*, there is sufficient material to show involvement of the Applicants in commission of appeals.

4. Having considered submissions advanced, it can be observed that although Applicants' names have been reflected in the FIR, no specific role has been attributed against them. The statement of witnesses named in charge-sheet are stereo type. Learned APP fairly concedes that there is no recovery of any incriminating material from the Applicants to connect them with commission of crime. Admittedly,

the Applicants are behind the bar, since July 2023. Since still this date charges are not framed, the trial is at nascent stage and may take its own course. Mr. Jadhavar rightly pointed out that the accused Bappa @ Khaja Ramraje Pawar and Bablu Rajendra Pawar, are also named in the FIR and they are already released on bail. The role of the Applicants cannot be distinguished from the role of those accused persons. They would be entitle to claim parity with co-accused.

5. At this stage, it would be apposite to refer judgment of the Supreme Court in the case of ***Jawed Gulam Nabi Shaikh Vs. State of Maharashtra & Anr.*** in Criminal Bail No.2787 of 2024 decided on 3rd July 2024, wherein Supreme Court made following observations:-

*“At this stage, it would be apposite to refer to the judgment of the Supreme Court in the matter of **Jawed Gulam Nabi Shaikh Vs. State of Maharashtra and other Criminal Appeal No. 2787 of 2024, decided on 3.7.2024** wherein, the Supreme Court observed in para. No. 19 thus :-*

“19. If the State or any prosecuting agency including court concerned has no wherewithal to provide or protect the fundamental right of an accused to have speedy trial as enshrined under Article 21 of the Constitution of India, then, the State or any other prosecuting agency should not oppose the plea for bail on the ground that crime committed is serious. Article 21 of the Constitution applies irrespective of nature of crime.”

The court has further observed that the object of bail is to secure attendance of the accused at trial and it is indisputable that bail is not to be withheld as a punishment.”

6. Keeping in mind the aforesaid observations of the Supreme Court and facts that the Applicants have already suffered incarceration

for more than 15 months by this time. The case is made out for grant of bail. Hence, the order:-

- (i) The application is allowed.
- (ii) The applicants – Gangaram Bapu Pawar and Suraj Rajendra Pawar be released on bail on furnishing P. B. and S.B. of Rs.50,000/- (rupees fifty thousand) each with one solvent surety of the like amount, in connection with Crime No.93 of 2023, registered with Shiradhon Police Station, District Osmanabad for offences punishable under Sections 302, 364, 324, 323, 452, 504, 506, 143, 147, 148 and 149 of the Indian Penal Code, 1860 on the following conditions :-
 - (a) The applicants shall not tamper with the prosecution evidence/witnesses.
 - (b) The applicants shall not enter the village Mal-Karanja, Taluka Kallamb, Dist. Osmanabad till disposal of sessions trial.
 - (c) The applicants shall not indulge in similar offences.
 - (d) Applicants shall attend each and every date before Trial Court unless specifically exempted by Court and cooperate for early disposal of Session Case.

(e) The applications are accordingly disposed of.

(S. G. CHAPALGAONKAR, J.)