

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

CRIMINAL BAIL APPLICATION NO.748 OF 2023

Omkar @ Murali Dasharath Gejage Applicant

versus

The State of Maharashtra Respondent

.....

- Mr. Ateet Shirodkar a/w Ganesh Gole, Advocate for Applicant.
- Mr. Shrikant H. Yadav, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 27th JUNE, 2024**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.458/2019, dated 07/11/2019, registered with Vita Police Station, Sangli, under sections 302, 397 r/w 34 of the Indian Penal Code. The Applicant was arrested on 13/11/2018 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. Heard Mr. Ateet Shirodkar, learned counsel for the Applicant and Mr. Shrikant H. Yadav, learned APP for the State.

3. The prosecution case is that on 06/11/2019 at about 09.30 p.m. there was some quarrel between the three accused including the present Applicant and the deceased Balaji Karande. There was some issue of overtaking the two wheeler. The accused got angry. They chased the deceased and stabbed him with knife. The deceased was found in injured condition by one villager. He informed the others. He was taken to the hospital. But he succumbed to his injuries in the hospital. The FIR was lodged by his father on 07/11/2019.

4. Learned counsel for the Applicant submitted that for about 4 ½ years there is absolutely no progress in the trial. Even the charges are not framed. Learned counsel relied on the order dated 15/02/2021 passed in Criminal Bail application No.879 of 2020. Vide that order, the co-accused Rohan @ Chikya Bapurao Ravatale, was granted bail by this Court. He submitted that the evidence against the present Applicant and the said co-accused, who is granted bail, is almost similar. The wallet of the deceased was recovered at the instance of the co-accused. The evidence

against the present Applicant is about recovery of clothes and a knife concealed under a heap of stones. He submitted that there is no connecting piece of evidence linking those clothes and the knife to the offence of murder. There are no eyewitnesses. There is a vague statement of one Karishma Naikwadi. But even that statement was considered while granting bail to the co-accused. Therefore, he seeks bail for the present Applicant.

5. Learned APP opposed these submissions. According to him recovery of knife was a serious circumstance. It was different from the circumstances against the co-accused who is granted bail.

6. I have considered these submissions. The post-mortem report shows that the deceased had suffered four injuries. Three injuries were on the hands and one was on the chest causing injury to the lungs, which resulted in the death. However, question is whether there is strong circumstance against the Applicant. I have perused the entire charge-sheet. Karishma's statement is quite vague. According to her, she had seen a two

wheeler passing from that area at the time when the offence was committed. But she has vaguely stated that there were perhaps three persons riding that motorcycle. No test identification parade was held to enable her to identify those persons. Her statement is quite vague and it cannot be a strong circumstance against the accused. The recovery of knife is not linked with the murder, which was recovered from under a heap of stones from an open space. It was in front of the house of one of the accused. That is a sole incriminating circumstance against the Applicant which is also a weak piece of evidence. In the other statements the accused had allegedly confessed before the police officers; but those statements may not be admissible in this matter. The material against the Applicant at this stage does not appear to be strong. The grant of bail to the accused who is almost similarly placed, is also an important circumstance. Therefore, the Applicant deserves to be released on bail. It is clarified that all these observations are made only for the purpose of deciding this application. The learned Trial Judge shall not be influenced by all these observations while dealing with the trial.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No.458/2019, dated 07/11/2019, registered with Vita Police Station, Sangli, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)