

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1962 OF 2023

Vikrant *alias*

Manya Umesh Kamble

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rahul K. Dhaygude a/w Mr. Dipak Y. Jadhav, Advocates for the Applicant.

Ms. Veera Shinde, APP for the Respondent-State.

Mr. Shailesh Chavan for Complainant/Intervenor.

PSI, Mr. Shivaji B. Jadhav, Satara City Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 6TH FEBRUARY 2024

P. C.

1. Heard Mr. Dhaygude, learned Counsel appearing for the Applicant, Ms. Shinde, learned APP appearing for the Respondent-State and Mr. Chavan, learned Counsel appearing for the Intervenor/Original Informant.

2. This is a regular Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	286 of 2021
2.	Date of registration of F.I.R.	6th April 2021
3.	Name of Police Station	Satara City
4.	Section/s invoked	302, 201 34 of <i>Indian Penal Code, 1860</i> .
5.	Date of incident	5 th April 2021 at 11.45 p.m. to 6 th

		April 2021 at 9.45 a.m.
6.	Date of arrest	6th April 2021
7.	Date of filing Charge-sheet	2nd July 2021

3. The prosecution case, as reflected in the statements of witnesses annexed to the Charge-sheet, is that the deceased and the Applicant's sister-Bhavana were in a relationship with each other. In February 2018, said Bhavana left the house and therefore an N.C. bearing No.245 of 2018 was lodged on 25th February 2018. At that time, Laxmi Kamble, mother of the present Applicant told sister of the deceased that Bhavana had left the house because of the deceased. Thereafter, said Bhavana got married to another person in the year 2019. It appears that even after marriage of Bhavana, the deceased used to contact her. In fact, the statement of Bhavana shows that before her marriage the deceased under the influence of alcohol used to visit her workplace and would harass her. The said statement further shows that said Bhavana in fact married one Suraj and the said marriage is a love marriage. Statement of Bhavana further shows that after her marriage, deceased all along used to contact said Bhavana and her husband-Suraj and he used to tell her that he is having lot of money and that her husband i.e. Suraj is a beggar and therefore she should leave her husband. The statement clearly further shows that said Bhavana and her husband were harassed by the deceased continuously.

4. As per the prosecution case, there are total 5 accused involved in the present case. According to the prosecution, Accused persons have murdered the deceased. The prosecution case is of circumstantial evidence. There is no eye-witness to the incident. The prosecution case is on the basis of 'last seen together', extra-judicial confession, a phone call of Accused No.5 made to mother of the Applicant i.e. Jayashree Umesh Kamble, the statement of Jayashree i.e. mother of the Applicant and that at about 1.20 a.m., on 6th April 2021 witness-Vishal Arun Kuchekar has seen the Applicant near the place of incident.

5. It is submitted by the learned Counsel appearing for the Applicant that this is a case of circumstantial evidence. He submitted that although there are some circumstances, which are incriminating, however, the chain is not complete. According to him, although at one point of time, he was seen together with the Deceased and Accused No.2 - Sangram Babu Ranpise, however, he was thereafter not seen with the deceased and therefore this is not a case of last seen together.

6. In any case, he submitted that the incident in question occurred on 5th April 2021, the date of arrest is 6th April 2021 and even after almost three years, there is no progress in the trial. He submitted that Charge has been framed on 6th October 2022 and in spite of that, not a single witness has been examined till February of 2024. He therefore prayed for granting bail.

7. On the other hand, Ms. Shinde, learned APP as well as Mr. Chavan, learned Counsel appearing for the Intervenor/Informant submitted that another learned Single Judge by Order dated 1st February 2024 has rejected Second Bail Application filed by Accused No.2- Sangram Babu Ranpise. It is their submission that the circumstances against the present Applicant as well as said Sangram Ranpise are similar and therefore, bail should not be granted. They pointed out certain observations in the Order dated 1st February 2024, pointing out that the trial could not be conducted as an adjournment was sought by the Accused. They also pointed out statements of several witnesses showing that there are incriminating circumstances against the present Applicant. They also pointed out that there are antecedents. They pointed out that there is one N.C. lodged on 23rd May 2020 by deceased against the present Applicant and other co-accused and there is one F.I.R. dated 5th September 2018 lodged by the deceased against the Applicant and others under Sections 324, 323, 504 and 506, 34 of *Indian Penal Code, 1860*. These N.C. and F.I.R. are relating to the same subject namely that the deceased used to harass the sister and the brother-in-law of the Applicant and of earlier relationship between the sister of the Applicant and the deceased because of which there used to be altercations between these two families.

8. Ms. Shinde, learned APP also pointed out that there is another

F.I.R. bearing C.R. No.213 of 2016 registered with Satara City Police Station under Section 395 of the *Indian Penal Code, 1860* however she submitted that as far as the said C.R. No.213 of 2016 is concerned, the Applicant is enlarged on bail therein.

9. This is a case completely based on circumstantial evidence, there is no eye-witness, the Charge-sheet is filed on 2nd July 2021. The Charge is framed on 6th October 2022 and till date not a single witness has been examined. As per the Charge-sheet, there are 38 witnesses proposed to be examined.

10. It is the contention of Ms. Shinde, learned APP and Mr. Chavan, learned Counsel appearing for the Intervenor/Informant that the delay has occurred as the Accused are taking adjournments. Mr. Chavan, learned Counsel submitted that when the two prosecution witnesses were present, learned Counsel appearing for the co-Accused, Sangram Ranpise, had sought time. In any case, it is clear that the trial is not progressing. Therefore, the Applicant cannot be indefinitely kept incarcerated.

11. It is true that there are some incriminating circumstances against the present Applicant and there is also a motive for committing the crime. It is also true that for grant or denial of bail, the nature of crime has a significance relevance. The Supreme Court of India has reiterated the factors to be taken into consideration in its decision in the case of

*Deepak Yadav v. State of U.P.*¹. The relevant paragraph no. 25 of the said decision is reproduced hereinbelow:

"25. For grant or denial of bail, the “nature of crime” has a huge relevancy. The key considerations which govern the grant of bail were elucidated in the judgment of this Court in Ram Govind Upadhyay v. Sudarshan Singh [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688] , wherein it has been observed as under : (SCC p. 602, para 4)

“4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

(Emphasis added)

12. This case is based on circumstantial evidence and there is no eye-witness to the incident in question. The accused is not a habitual offender and the motive for the offence in question appears to be anger

¹ (2022) 8 SCC 559

against the deceased who was continuously interfering and disturbing the marital life of the sister of the accused.

13. It is an admitted position that Charge-sheet has been filed on 2nd July 2021. There are 38 witnesses proposed to be examined by the prosecution as per the Charge-sheet. The trial is likely to take a considerably long time.

14. As far as the antecedents are concerned, the same are arising out of the same dispute concerning continuous harassment by deceased of the sister and the brother-in-law of the Applicant. As far as crime registered in 2016, the Applicant has already been granted bail.

15. In this case, there are total five accused, three of whom have already granted bail by following Orders:

Accused No.5-Mr. Chetan Nandkumar Aawale by a learned Single Judge (Coram: Revati Mohite-Dere, J.) by Order dated 21st September 2021 passed in Criminal Bail Application No. 2902 of 2021.

Accused No.4- Mr. Umesh Kambale by a learned Single Judge (Coram: V.G. Bisht, J.) by Order dated 20th January 2022 passed in Criminal Bail Application No. 3667 of 2021.

Accused No.2- Mr. Tejas Nandkumar Awale by a learned Single Judge (Coram: Prakash D. Naik, J.) by Order dated 23rd December 2022 passed in Criminal Bail Application No. 1159 of 2022.

16. Mr. Chavan, learned Counsel appearing for the Intervenor/

Informant has very heavily relied on the Order of learned Single Judge dated 1st February 2024 passed in Criminal Bail Application No. 2088 of 2023 rejecting the Bail Application of Accused No. 3- Sangram Babu Ranpise. However, it is to be noted that said Criminal Bail Application No. 2088 of 2023 is the Second Bail Application filed by said Accused No.3- Sangram Babu Ranpise. First Bail Application filed by the Accused No.3- being Criminal Bail Application No. 748 of 2022 was rejected by Order dated 23rd December 2022 passed by the learned Single Judge. Thereafter the Second Bail Application was rejected by said Order dated 1st February 2024 passed by learned Single Judge *inter alia* observing that there is no change in the circumstances to entertain the Second Bail Application. It is well settled that the parameters of the consideration of the First Bail Application and the Second Bail Application are totally different. Therefore, reliance on said Order dated 1st February 2024 of the learned Single Judge is of not much significance.

17. Mr. Dhaygude, learned Counsel appearing for the Applicant after taking instructions states that as most of the witnesses are from Satara District, the Applicant will reside outside District-Satara and that he will reside at the residence of his material uncle i.e. Datta Pujari, 226, Mangalwar Peth, Pune.

18. The Applicant does not appear to be at risk of flight.

19. Accordingly, the Applicant can be enlarged on bail by imposing stringent conditions.

20. In view thereof, the following order:-

ORDER

(a) The Applicant-Vikrant *alias* Manya Umesh Kamble be released on bail in connection with C.R. No.286 of 2021 registered with the Satara Police Station, Taluka- Satara, District- Satara on his furnishing P. R. Bond of Rs.25,000/- with one or two sureties in the like amount.

(b) The Applicant shall not enter the Satara District after being released on bail, except for reporting to the Investigating Officer if called and for attending the trial.

(c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Juna Bazar, Gadital Police Station, Taluka-Pune, District-Pune twice in a week on Sunday and Wednesday between 11.00 a.m. and 1.00 p.m. for six months and thereafter once every week on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Juna Bazar Gadital Police Station, Taluka- Pune, District- Pune to communicate details thereof to the Investigating Officer.

(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 such a person from disclosing the facts to the Court or to any Police personnel.

(f) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.

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

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

21. The Bail Application is disposed of accordingly.

22. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its merits uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]