

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1729 OF 2023**

Rupesh Kamlakar Sawant @ Chotabhai ... Applicant

VS.

The State of Maharashtra ... Respondent

Mr. A. S. Khandeparkar, Senior Advocate a/w Farhan Shaikh a/w Apoorva Khandeparkar i/b Khandeparkar and Associates for the Applicant.

Mr. S. H. Yadav, APP for the State.

Mr. Pavan Kamble, PSI, Ratnagiri City Police Station, Present.

CORAM : BHARAT P. DESHPANDE, J.

DATED : 25th NOVEMBER, 2024

ORDER :-

1. Heard learned counsel for the applicant and the learned APP for the State.

2. The applicant is seeking bail with regard to the offence punishable under Sections 302, 201, 120-B of Indian Penal Code. The FIR was registered against the applicant, who is accused No.2 in connection with case of death of Swapnali Sukesh Sawant.

3. The FIR was registered on 11.09.2022 at Ratnagiri Police Station vide Crime No.349 of 2022, the charge-sheet is filed on

08.12.2022.

4. Learned counsel for the applicant would submit that though charges are framed, there are total 55 witnesses has shown in the charge-sheet. He submits that as on date only 11 witnesses are examined and there is no possibility of conclusion of trial in near future.

5. Besides, learned counsel for the applicant would submit that there is no evidence against the present applicant showing his involvement in the said offence except some CCTV footage on the day of disappearance of the victim/deceased and that too alongwith accused No.1. He submits that applicant is permanent resident of Ratnagiri and he is having firmroots in the said area. He submits that applicant is already in jail for more than two and half years and possibility of conclusion of trial is remote as far as the present matter is concerned.

6. Per contra, learned APP while objecting bail application would submit that apart from CCTV footage which was found recorded in the mobile shop on 1st September, 2022, there is punchnama of the spot which the applicant has shown, wherein he has thrown the mobile of the deceased. Further he would submit that antecedents of the applicant are not clear as there are some matters pending

against him. He then submits that the name of the present applicant was recorded by the mother of the deceased showing suspicion in the said offence.

7. The fact remains that only material which is now found against the present applicant is one CCTV footage in the mobile shoppe, wherein he alongwith accused No.1 were found present.

8. The other punchnama which has been pointed out by the learned APP is with regard to the disclosure made by present applicant about a place where he allegedly threw a mobile of the deceased. However, admittedly, there is no recovery of any object and more so the mobile phone of the deceased from the said place. Thus, such statement made by the applicant/accused will have to be tested during trial with the fact that there is no recovery of any object at the place which was pointed out by him.

9. It is no doubt true that some suspicion has been raised by the mother of the deceased qua the applicant, however, that cannot be sufficient enough at this stage to refuse bail.

10. Apart from the above material, the learned APP is unable to point out any other evidence collected by the investigating agency showing involvement of the present applicant in the said offence.

11. Besides, the charge-sheet would show that the prosecution is going to examine around 55 witnesses out of which only 11 witnesses are examined as on date. It is also clear from the record that the chance to conclude the trial in near future is bleak.

12. The applicant is permanent resident of the address mentioned in the application having his firmroots, there is no possibility of absconding during the trial. Applicant would be enlarged on bail by imposing strict conditions.

13. The Bail Application is allowed.

14. The applicant is released on bail in FIR No.349 of 2022 registered at Ratnagiri Police Station, which is now considered as Sessions Case No. 11 of 2023 on furnishing personal bond of Rs.1 Lakh with two solvent sureties in the like amount to the satisfaction of the learned trial Court and on the following conditions:

ORDER

(I) Applicant shall not in any manner try to contact or pressurize the prosecution witness and more particularly the relatives of the deceased.

(II) Applicant shall not leave the State of Maharashtra and India without prior permission of the

learned Sessions Court.

(III) Applicant shall deposit his passport, if any before the learned trial Court within eight days from the date of his release.

(IV) Applicant shall not enter the area of the Ratnagiri Gramin Police Station.

(V) Applicant shall attend trial proceedings regularly and in person without seeking any exemption except in case of any emergency which the trial Court shall consider on case to case basis.

(VI) In case the applicant is found violating any of condition, the prosecution will be entitled to seek cancellation of the bail by approaching the trial Court.

15. The Bail Application stands disposed of.

(BHARAT P. DESHPANDE, J.)