

Arjun

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

BAIL APPLICATION NO.2136 OF 2023

Rakesh Shamrao Sankpal

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi i/b Shivani Kondekar, for the Applicant.

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

CORAM : MADHAV J. JAMDAR, J.

DATED : MARCH 05, 2024

P.C.:

1. Heard Mr. Joshi, learned Counsel appearing for the Applicant and Ms. Shinde, learned APP for the Respondent-State.

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

1	C. R. No.	775 of 2022
2	Date of registration of F.I.R.	02/10/2022
3	Name of Police Station	Shahupuri Police Station, Kolhapur
4	Section/s invoked	302 of the <i>I.P.C., 1860</i>
5	Date of incident	02/10/2022
6	Date of arrest	03/10/2022
7	Date of filing Charge-sheet	19/12/2022

3. As per the prosecution case, the Applicant and the deceased were having a love affair. The Applicant was insisting to marry with the deceased and as the deceased rejected the said marriage proposal, the Applicant assaulted the deceased with a '*koyata*'.

4. Mr. Joshi, learned Counsel appearing for the Applicant submitted that the case is of circumstantial evidence. The incident occurred on the spur of the moment as the Applicant wanted to marry with the deceased and she rejected the said marriage proposal. He submitted that there are no other antecedents against the Applicant. He submitted that as the main witnesses i.e. two children are minor, the Applicant will not reside in District-Kolhapur and will not enter District-Kolhapur except for attending the trial.

5. On the other hand, Ms. Shinde, learned APP strongly opposed the Bail Application. She submitted that although the case is of circumstantial evidence, there are strong circumstances. The body of the deceased is recovered from the house of the Applicant. There were 9 phone calls made between the Applicant and the deceased on the day of the incident between 5.31 a.m. to 10.07 a.m.. She submitted that in the mobile of the Applicant photograph of the dead body of the deceased with '*koyata*' was found. She submitted that as the children of the deceased are minor, there is likelihood of the Applicant

influencing the witnesses and therefore the Bail Application be rejected.

6. A perusal of the record shows that the incident in question occurred on 2nd October 2022. The Applicant has been arrested on 3rd October 2022. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 19th December 2022. As per the Charge-sheet, there are 44 witnesses proposed to be examined by the prosecution and even the charge is also not framed. Therefore the trial is likely to take a considerably long time.

7. As per the prosecution case, the Applicant and the deceased were having a love affair and as the deceased rejected a marriage proposal of the Applicant, the Applicant assaulted the deceased with '*koyata*'. There are no antecedents against the Applicant. Therefore the Applicant is entitled to be released on bail.

8. Mr. Joshi, learned Counsel appearing for the Applicant states that as several witnesses are from District-Kolhapur, the Applicant will therefore not reside within District-Kolhapur and that the Applicant will reside at C/o. Nilesh Banse, Chhatrapati Shivaji Market, Revenue Road, Near Petrol Pump, Sangli-416 416.

9. The Applicant does not have any criminal antecedents.

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

11. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant-Rakesh Shamrao Sankpal be released on bail in connection with C.R. No.775 of 2022 registered with the Shahupuri Police Station, District-Kolhapur on his furnishing P.R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter District-Kolhapur 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 Sangli City Police Station, District-Sangli 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 Sangli City Police Station, District-Sangli 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 prosecution evidence and shall not contact or influence the Complainant or any witness 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.

12. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]