

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2327 OF 2024

Sandeep Dattatraya Kamble

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ramanik P. Pawar a/w Ms. Samiksha Pawar, Ms. Dhanashree Jagdale, Mr. Shivtej Takalkar, Samadhan Mahmulkar & Trupti Jambulkar, for the Applicant.

Mr. C. D. Mali, APP, for the Respondent-State.

PSI. Shrikant D. Waghmare, Ichalkaranji Police Station, District – Kolhapur, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: DECEMBER 17, 2024

P.C.:

1. Heard Mr. Pawar, learned Counsel for the Applicant and Mr. Mali, 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.	04 of 2023
2	Date of registration of F.I.R.	03/01/2023
3	Name of Police Station	Ichalkaranji Police Station, District - Kolhapur
4	Section/s invoked in FIR	307, 452, 147, 148, 149, 427, 323 & 506 of the <i>I.P.C., 1860</i> .
5	Date of incident	02/01/2023
6	Date of arrest	05/01/2023

7	Date of filing Charge-sheet	02/04/2023
8	Section/s applied in Charge-sheet	302, 307, 452, 147, 148, 149, 427, 323 & 506 of the <i>I.P.C., 1860.</i>

3. The present Applicant is the Accused No.1. The Respondent – State of Maharashtra has opposed the Bail Application by filing Affidavit dated 17th December 2024 of Shrikant Digambar Waghmare, Police Sub Inspector, presently attached to Ichalkaranji Police Station, District – Kolhapur. The prosecution case is set out in Paragraph No.3 of the said Affidavit dated 17th December 2024, which reads as under:-

“3. I say that the prosecution case in brief is as under :-

On 03/01/2023 complaint was lodged by Sou. Santoshdevi Rajeshkumar Joshi against Sandeep Kamble, Pradeep Kamble (non-Applicants) and Priya Sandeep Kamble (Applicant) alleged that on 02/01/2023 at about 10.05 to 10.30 pm in the night one Sandeep Kamble had called the husband of the informant down stairs as he wanted to talk with him. When the husband of the informant came downstairs then the Sandeep Kamble had told the husband of the informant that some Prajapati is living on rent in the house of the husband of the informant should be vacated as their behaviour is not correct. The husband of the informant had told the non-applicant to give him one week to remove them from the place and the husband of the informant came back home. Later it is further stated that non-applicants and applicant came to the house of the informant and began to threaten the informant and husband to vacate the family staying on rent to the house belonging to the husband of the informant immediately and non-applicants and applicant caught hands and legs of the husband of the informant and brought him downstairs and Accused No. 1 Sandeep Kamble brought a piece of tile and

hit the head of the husband of the applicant and it is further stated that the Sandeep Kamble, Pradeep Kamble (non-Applicants) and Priya Sandeep Kamble (Applicant) had landed fists and blows to the informant also.”

4. It is the submission of Mr. Pawar, learned Counsel for the Applicant that the Applicant is incarcerated since 5th January 2023. He submits that till date there is no progress in the trial and even the charge is also not framed. He submits that the incident in question took place on the spur of the moment due to a sudden fight and therefore the bail be granted.

5. On the other hand, Mr. Mali, learned APP strongly opposes the Bail Application. He points out the *Roznamas* of certain dates including 19th August 2024 and 21st August 2024. He submits that the request was made by the Applicant not to frame the charge on those dates as this Bail Application is pending in the High Court. He also points out the statement recorded under Section 164 of the *Code of Criminal Procedure, 1973*. He submits that there are eye-witnesses to the incident in question and as the Applicant is involved in a very serious offence, the Bail Application be rejected.

6. Perusal of the record shows that the incident in question took place on 2nd January 2023, FIR was lodged on 3rd January 2023 and the Applicant has been arrested on 5th January 2023. Till date, there is no progress in the trial and even the charge is also not framed. As per

the prosecution case, about 42 witnesses are proposed to be examined by the prosecution. Thus, considerable time will be required for completion of the trial.

7. The contention of Mr. Mali, learned APP that the charge is not framed as the Applicant himself has requested not to frame the charge, is partially correct as the said request was made on 19th August 2024 and 21st August 2024.

8. Perusal of the *Roznama* produced by Mr. Pawar, learned Counsel for the Applicant shows that the Applicant has not been produced before the learned Trial Court on several dates including on 4th March 2024, 6th March 2024, 16th March 2024, 20th March 2024, 30th March 2024, 6th April 2024, 16th April 2024, 22nd April 2024, 25th April 2024, 18th June 2024, 16th July 2024, 7th August 2024 etc.

9. Mr. Mali, learned APP has relied on the *Roznama* dated 19th August 2024 to contend that the Applicant himself has requested for not framing of the charge in view of the pendency of this Bail Application. However, it appears that the *Roznamas* recorded before 19th August 2024 show that on various dates the Applicant has not been produced before the learned Trial Court. Thus, the Applicant solely is not responsible for delay in trial.

10. *Prima facie*, it appears that the incident in question took place as there is certain dispute regarding the conduct of the tenant of the

deceased. It is an admitted position that the Applicant is residing in the adjoining residential premises and therefore *prima facie* there is substance in the contention that the quarrel between two neighbours had escalated further resulting into death of the deceased.

11. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail.

12. As per the Charge-sheet, there are 42 witnesses proposed to be examined by the prosecution. Thus, the trial will take a considerably long time to conclude. Accordingly, case is made out for grant of bail.

13. It is the contention of Mr. Mali, learned APP that the charge is framed. However, Mr. Pawar, learned Counsel for the Applicant states that the charge is not yet framed. In any case assuming that the charge is framed, as the prosecution proposes to examine 42 witnesses, considerable time will be required for conclusion of the trial.

14. However, there is substance in the contention raised by Mr. Mali, learned APP that wife of the deceased who is the eye-witness is staying alone and therefore there is possibility that the Applicant will pressurize her.

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

15. In view of said submission made by Mr. Mali, learned APP, Mr. Pawar, learned Counsel for the Applicant, after taking instructions, states that the Applicant will therefore not reside within District – Kolhapur and the Applicant will reside at C/o Sujata Sanjay Walim, Anjira Park, Koyna Vasahat, Karad, District – Satara and he will report to the Karad Police Station, District – Satara.

16. The Applicant does not have any criminal antecedents.

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

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

19. In view thereof, the following order:-

ORDER

- (a) The Applicant - Sandeep Dattatraya Kamble be released on bail in connection with C.R. No.04 of 2023 registered with the Ichalkaranji Police Station, District – Kolhapur on his furnishing P.R. Bond of Rs.50,000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the Kolhapur 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 Karad Police Station, District

- Satara once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Karad Police Station, District – Satara 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.

20. The Bail Application is disposed of accordingly.

21. It is clarified that the Trial Court shall decide the case on its merits uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]