

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

CRIMINAL BAIL APPLICATION NO.3205 OF 2022

Pratap *alias* Gundyia Sanjay Mane

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Tejas Hilage (through VC) Advocate for the Applicant.

Ms. Veera Shinde, APP for Respondent-State.

PC, B.No. 2568, Kashiram Appaso Kamble, Jaisingpur Police Station-present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 13th March 2024

P. C.

1. Heard Mr. Hilage, learned Counsel for the Applicant through V.C. and Ms. Shinde, learned APP appearing for the Respondent-State.
2. This Bail Application is of the year 2022. However, one co-accused has been granted bail by this Court by Order dated 1st March 2024 passed in Criminal Bail Application No.2494 of 2023 and therefore as per the administrative order dated 8th February 2024, the matter is placed before this Court.
3. 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.	494 of 2021
2. Date of registration of F.I.R.	17 th December 2021

3.	Name of Police Station	Jaysinghpur, District-Kolhapur
4.	Section/s invoked	302, 201 r/w 34 of <i>Indian Penal Code, 1860</i> .
5.	Date of incident	15 th December 2021 to 17 th December 2021
6.	Date of arrest	17 th December 2021
7.	Date of filing Charge-sheet	15 th March 2022

4. As per the prosecution case, the deceased - Prashant Bhise had abused the mother of the present Applicant i.e. Accused No.1 as a result of non-payment of some money taken by the Accused No.1 from one Archana. As per the prosecution case, all four Accused took the deceased to one eatery and thereafter they went to bar for consuming liquor. Thereafter the deceased was not found and his mortal remains were discovered on 17th December 2021.

5. Mr. Hilage, learned Counsel appearing for the Applicant submitted that the Applicant was arrested on 17th December 2021, the Charge-sheet was filed on 15th March 2022 and till date except framing of the Charge, there is no progress in the trial. He submitted that as per the Charge-sheet, about 33 witnesses are proposed to be examined by the prosecution and therefore, the trial will take a considerably long time. He further submitted that in fact the Applicant has lodged N.C. on 7th December 2021 against the deceased regarding abuses and therefore, there is no question of committing crime as the Applicant has

taken recourse to the law. He submitted that the entire case is based on circumstantial evidence. The Applicant has been implicated because the actual assailants cannot be found and as the Applicant had lodged the N.C. against the deceased. He submitted that recovery of knife attributed to the Applicant is from an open space, and the motorcycle allegedly used in the crime is not belonging to the Applicant. He also submitted that the co-accused has been granted bail by this Court by Order dated 1st March 2024 in Bail Application No.2494 of 2023.

6. On the other hand, Ms. Shinde, learned A.P.P. strongly opposed the Bail Application. She submitted that there is motive to commit the offence in question. The Applicant and the deceased were last seen together. There is recovery at the instance of the present Applicant. Thus she submitted that there are strong circumstances against the present Applicant.

7. Perusal of the record shows that the F.I.R. was registered on 17th December 2021. The Applicant was arrested on 17th December 2021 and Charge-sheet was filed on 15th March 2022.

8. As per the prosecution case, there are more than 33 witnesses proposed to be examined. As far as the progress in the trial is concerned, the Charge was framed on 20th June 2023. However, thereafter there is no further progress in the trial. Therefore, the trial is likely to take a considerably long time.

9. This case is of circumstantial evidence and except last seen together and recovery, there are no other circumstances against the present Applicant. In fact the Applicant has lodged N.C. against the deceased on 7th December 2022. Therefore prima facie there is substance in the contention raised by the Applicant.

10. There are two antecedents, which are of the year 2016-2017 concerning offence under Section 65(e) of the *Maharashtra Prohibition Act, 1949* and the Applicant has been granted bail in those cases. Except these two cases, there are no other criminal antecedents.

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

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

ORDER

(a) The Applicant -Pratap *alias* Gundya Sanjay Mane be released on bail in connection with C. R. No.494 of 2021 registered with the Jaysinghpur Police Station, District- Kolhapur on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) 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.

(c) The Applicant shall report to the Jaysinghpur Police Station, District - Kolhapur on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

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

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

13. The Bail Application is disposed of accordingly.

14. 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.]