

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

CRIMINAL BAIL APPLICATION NO.380 OF 2024

Chandrakant Vitthal Gaikar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ganesh Gupta, a/w Chetan Bhaud, Sahil Ghorpade, Madan Khansole, Jagrut Patil Advocates, i/by G.G. Legal Associates for the Applicant.

Mr. P.D. Deokar, A.P.P., for Respondent-State.

API, Ms. Sushma Patil, Panvel Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 22nd March 2024

P. C.

1. Heard Mr. Gupta, learned Counsel for the Applicant and Mr. Deokar, 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.	288 of 2021
2.	Date of registration of F.I.R.	31st May 2021
3.	Name of Police Station	Panvel, District-Raigad
4.	Section/s invoked	302, 328, 201 of <i>I.P.C., 1860</i> ;
5.	Date of incident	28th May 2021
6.	Date of arrest	31st May 2021
7.	Date of filing Charge-sheet	27th August 2021

3. As per the prosecution case, the Applicant was in a relationship with the deceased. The Applicant is about 35 years old and the deceased was about 40 years. The husband of the deceased had passed away. As per the prosecution case, the deceased was HIV+ve and in spite of that, she was insisting to marry the Applicant and therefore the incident in question took place. The Applicant has committed murder of the deceased by injecting her with Ketamine.

4. It is the contention of Mr. Gupta, learned Counsel for the Applicant that in fact initially it was reported that the deceased had died by suicide as she was HIV+ve. He submitted that as far as C.A. report is concerned, it records that poison is not detected. He therefore submitted that the Applicant is entitled to be released on bail. He submitted that the case is of circumstantial evidence. He submitted that the Applicant is in the custody since 31st May 2021 and although the Charge-sheet was filed on 27th August 2021, there is no further progress in the trial, except framing of Charge on 18th December 2023.

5. On the other hand, Mr. Deokar, learned APP vehemently opposed the Bail Application. He submitted that as the Applicant was working in one Patel Hospital as a Wardboy, the Applicant committed the offence in question with premeditation. He therefore submitted that the Bail Application be rejected.

6. Perusal of the record shows that the incident in question took place on 28th May 2021, the Applicant was arrested on 31st May 2021 and the Charge-sheet was filed on 27th August 2021. As per the Charge-sheet, there are about 39 witnesses proposed to be examined by the prosecution. Except framing of Charge on 18th December 2023 , there is no further progress in the trial. Accordingly, the trial is likely to take a considerably long time. The case is based on circumstantial evidence.
7. *Prima facie*, there is substance in the contention raised by learned Counsel for the Applicant that there is no incriminating material against the Applicant as the C.A. report records that no poison is detected.
8. The Applicant does not appear to be at risk of flight.
9. The Applicant does not have any criminal antecedents.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
11. In view thereof, the following order:-

ORDER

(a) The Applicant - Chandrakant Vitthal Gaikar be released on bail in connection with C.R. No.288 of 2021 registered with the Panvel Police Station, District - Raigad on his furnishing P. R. Bond of Rs.25,000/- with one or two local 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 Panvel Police Station, District - Raigad on the first Sunday of every month 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.

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 merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]