

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

CRIMINAL BAIL APPLICATION NO.404 OF 2024

Santosh Bapji Khanjode Applicant

versus

State of Maharashtra Respondent

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- Mr. Subir Sarkar, (Legal Aid Advocate) for Applicant.
- Smt. M. H. Mhatre, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th MARCH, 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.81/2020, dated 01/07/2020, registered with Vikramgad Police Station, Palghar, under sections 302, 504, 506 r/w 34 of the Indian Penal Code.

2. Heard Mr. Subir Sarkar, learned counsel for the Applicant and Smt. M. H. Mhatre, learned APP for the State.

3. The Applicant had earlier approached this Court in a joint Bail Application i.e. Criminal Bail Application No.200 of 2021, which was filed along with his father Bapaji Khanjode. Vide the order dated 17/03/2021 that application was rejected by a reasoned order. The Applicant was arrested on 01/07/2020. Since then he is in custody. There is no progress in the trial and therefore this application is preferred by the present Applicant. In the interest of justice, I have heard the parties.

4. The prosecution case is about murder of one Sakku Baraf. The FIR is lodged by her son Sachin. He had seen the incident. The allegations are that the Applicant's father assaulted the deceased with an iron crowbar and the Applicant picked her up and threw her on the ground. The incident was seen by the informant's brother Milind as well. There are two eyewitnesses apart from them. They are Baban Baraf and Dilip Khanjode. The investigation was carried out and the charge-sheet was filed.

5. Learned counsel for the Applicant submitted that the Applicant was not regularly produced before the Trial Court. The

charges were framed in 2022. But since then, there has been no progress in the trial at all and it is unlikely that the trial would be concluded within a reasonable period. Therefore, on this ground alone, this Court may consider granting bail to the Applicant.

6. Learned APP opposed these submissions and added that directions be issued to the Trial Court to complete the trial within a time bound manner.

7. I have considered these submissions. The order dated 17/03/2021 gives the reasons as to why the said Bail Application was rejected. The material against the Applicant was described in detail. There are statements of two eyewitnesses and there is recovery of an iron crowbar at the instance of the present Applicant. All this material was considered on the previous occasion. The deceased had suffered head injury on the right parietal region of the size 2.5 cm x 1 cm x 0.5 cm. There was injury on her left knee joint. The cause of death was 'death due to cardio-respiratory arrest due to intracranial bleed, due to

head injury'. There are eyewitnesses to the incident. They have alleged specific role against the Applicant. The eyewitness Baban has not stated that he had seen the Applicant assaulting the deceased. But all the other eyewitnesses have attributed the role of assault to the present Applicant. However, he had not used any weapon. The weapon is ascribed to his father. The motive was that the accused were having suspicion that the deceased was having an affair with the husband of the Applicant's sister and therefore both the accused were holding grudge against the deceased. All these factors were considered while rejecting his Bail Application on the previous occasion. However, since then there is absolutely no progress in the trial. The Applicant was arrested on 01/07/2020. As of today, not a single witness is examined. All these factors show that the prosecution is not serious about this prosecution and in this situation, Applicant's continuous detention as an under trial prisoner is unjustified. Therefore, on this ground alone the Applicant deserves to be released on bail.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No.81/2020, dated 01/07/2020, registered with Vikramgad Police Station, Palghar, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend all the dates in the Trial Court unless prevented by a reasonable cause.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)