



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.411 OF 2024

Kailash Chiman Wagh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Raj Dilip Dali, Advocate for the Applicant.
Mr. Prasanna P. Malshe, APP for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 1st MARCH 2024

PC:-

1. Heard Mr. Dali, learned Counsel appearing for the Applicant and Mr. Malshe, learned APP appearing 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.	505 of 2018
2.	Date of registration of F.I.R.	08/06/2018
3.	Name of Police Station	Waliv Police Station, Vasai
4.	Section/s invoked	302, 201 r/w. 34 of the I.P.C., 1860; 3, 25, 27 of the Arms Act, 1959.

5.	Date of incident	07/06/2018 to 08/06/2018
6.	Date of arrest	08/06/2018
7.	Date of filing of Charge-sheet	17/04/2019

3. As per the prosecution case, the mother of the deceased came to the premises where the deceased was residing as the deceased was not responding to the phone calls and she found the mortal remains of the deceased stuffed in a refrigerator.

4. Mr. Dali, learned Counsel appearing for the Applicant submitted that the incident in question occurred on or before 8th June 2018, F.I.R. was lodged on 8th June 2018, the Applicant was arrested on 8th June 2018 and Charge-sheet was filed on 5th September 2018 and till date, except for framing of the charge, there is no further progress in the trial. He states that not a single witness has been examined by the prosecution. He further submitted that the case is of circumstantial evidence. A learned Single Judge [Coram: Prakash D. Naik, J.] by Order dated 18th March 2021 passed in Bail Application No.1370 of 2020 granted bail to the co-Accused. He submitted that parity is applicable to the present Applicant also.

5. Mr. Malshe, learned APP appearing for the Respondent-State strongly opposed the Bail Application. He submitted that the Applicant had motive to commit the offence in question. There are many circumstances which indicate the involvement of the Applicant in the offence. There is evidence in the form of C.D.R., there are continuous exchange of calls between the Accused. There is one criminal antecedent against the present Applicant of the year 2017 registered under Section 307 of *the Indian Penal Code, 1860*.

6. Perusal of the record shows that the F.I.R. was lodged on 8th June 2018, the Applicant was arrested on 9th June 2018, Charge-sheet was filed on 5th September 2019 and till date there is no progress in the trial. The case is of circumstantial evidence. The co-Accused has been released on bail by Order dated 18th March 2021 passed by a learned Single Judge in Bail Application No.1370 of 2020. The reasons are in paragraph no. 7 of the said order, which reads as under:-

“7. I have perused the documents on record. Undisputedly case is based on circumstantial evidence. The alleged motive is not corroborated by any strong evidence. The prosecution is primarily

replying upon the CDR. However apart from that there are no strong circumstances to show the complicity of the applicant. Considering the factual matrix of this case, further detention of the applicant is not necessary. Case for grant of bail is made out....”

Thus, parity is applicable to the present Applicant.

7. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.
8. The Applicant does not appear to be at risk of flight.
9. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
10. In view thereof, the following order:-

ORDER

- (a) The Applicant - Kailash Chiman Wagh be released on bail in connection with C. R. No.505 of 2018 registered with the Waliv Police Station, Taluka-Vasai, District-Palghar on his furnishing P. R. Bond of Rs.25,000/- with one or two sureties in the like

amount.

- (b) The Applicant is permitted to furnish cash bail surety in the sum of Rs.25,000/- for a period of two months in lieu of surety.
- (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 Waliv Police Station, Taluka- Vasai, District-Palghar on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.
- (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 witnesses 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.

11. The Bail Application is disposed of accordingly.

12. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its merits and uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]