

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

BAIL APPLICATION NO.753 OF 2024

Akshay Ramdas Belunke

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi (Through V.C.) i/b Yash G. Fadtare, for the Applicant.

Ms. Savita M. Yadav, APP, for the Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : APRIL 29, 2024

P. C.

1. Heard Mr. Joshi, learned Counsel for the Applicant and Ms. Yadav, 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.	129 of 2023
2	Date of registration of F.I.R.	24/04/2023
3	Name of Police Station	Umadi, District-Sangli
4	Section/s invoked	302 r/w 34 of the <i>I.P.C., 1860</i> ;
5	Date of incident	23/04/2023
6	Date of arrest	29/04/2023
7	Date of filing Charge-sheet	21/07/2023

3. The Deceased-Priyanka Birudev Belunke is the wife of Accused

No.1-Birudev @ Birappa Belunke and the Deceased-Mohini Birudev Belunke is the daughter of Accused No.1-Birudev @ Birappa Belunke. Informant's sister i.e. Priyanka Birudev Belunke, and said Mohini Birudev Belunke were found dead. The Post-Mortem Examination Report shows the cause of death of both the deceased is due to strangulation. Initially, the deceased Priyanka's brother i.e. Informant-Santosh Rama Chaugule lodged a complaint against the husband of the deceased-Priyanka namely Birudev @ Birappa Belunke. Said F.I.R. was lodged on 24th April 2023. However, thereafter by further supplementary statement dated 1st May 2023 he had exonerated said Birudev and stated that the offence was committed by Accused No.2-Vikas Belunke, Accused No.3-Akshay Ramdas Belunke and Accused No.4-Umesh @ Bablu Belunke. As per the prosecution case, Accused Nos.2, 3 and 4 were of the opinion that the family of the deceased were performing black magic and therefore several hurdles were being faced by the family of the Accused and therefore they strangled the said deceased Priyanka and Mohini.

4. Mr. Joshi, learned Counsel for the Applicant submitted that the case is of circumstantial evidence. The Applicant was arrested on mere suspicion and there is nothing incriminating found against the Applicant. He submitted that the only allegation is that the Applicant along with other Accused was seen at the spot of the incident. He

submitted that there are no antecedents against the Applicant.

5. On the other hand, Ms. Yadav, learned APP strongly opposed the Bail Application. She has filed an Affidavit dated 26th April 2024 of Sandeep Rangrao Shinde, Assistant Police Inspector, attached to Umadi Police Station, District-Sangli. In the said Affidavit, details of investigation are set out. On the basis of statements of, Rajaram Dnyanoba Belunke (Page 174), Laxman Manohar Belunke (Page 176), Kundlik Sadashiv Belunke (Page 178) and Santosh Daryappa Yamgar (Page 180), it is her submission that there is motive attributed to the Applicant (Accused No.2), Accused Nos.3 and 4 and as the Applicant and the other Accused who are members of the same family were of the opinion that family of the deceased were involved in black magic and therefore their family is suffering from various hurdles. On the basis of these submissions, she submitted that on 23rd April 2023 at about 04.30 p.m. witnesses had seen co-Accused Vikas Belunke running from the shed of Vijay Belunke, brother of the Applicant, where the mortal remains of the deceased were found. However, the Applicant and co-Accused were found going to Kunikonur Village on motorcycle and they looked frightened.

6. In this case, the incident in question took place on 23rd April 2023 and F.I.R. was lodged on 24th April 2024. Initially, F.I.R. was lodged against Birudev @ Birappa Belunke i.e. husband of the deceased

Priyanka and father of the deceased Mohini. However, thereafter, on the basis of statements recorded and on the basis of the investigation, the involvement of the Applicant and Accused Nos.3 and 4 was found and they were arrested on 29th April 2023. It is an admitted position that investigation has been completed and that the Charge-sheet has been filed on 21st July 2023. As per the Charge-sheet there are 27 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even the charge is also not framed. Accordingly, the trial is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention raised by learned Counsel for the Applicant that except said evidence that the Applicant was seen near the spot of the incident, there is no other evidence. In fact, there is no recovery at the instance of the Applicant. The motive attributed to the Applicant is that the family of the deceased were conducting black magic against the family of the Applicant and the other co-Accused. However, even in that behalf also there is no evidence to substantiate said motive except oral statements of the witnesses. Thus, the Applicant is entitled to be enlarged on bail.

8. However, it is to be noted that as most of the witnesses are from District-Sangli, Mr. Joshi, learned Counsel for the Applicant, after taking instructions, states that as the several witnesses are from District-Sangli, the Applicant will therefore not reside within District-Sangli, and the

Applicant will therefore reside at C/o. Maruti Manohar Ghune, Bhose Road, Ghune Wasti, Wani Chinchale, Solapur-413 301.

- 9.** The Applicant does not have any criminal antecedents.
- 10.** The Applicant does not appear to be at risk of flight.
- 11.** Accordingly, the Applicant can be enlarged on bail by imposing conditions.
- 12.** In view thereof, the following order:-

ORDER

- (a) The Applicant-Akshay Ramdas Belunke be released on bail in connection with C.R. No.129 of 2023 registered with the Umadi Police Station, District-Sangli on his furnishing PR. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Sangli 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 Sangola Police Station, District-Solapur once in fifteen days i.e. on 1st and 3rd Sunday of every month between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Sangola Police Station, District-Solapur 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.

13. The Bail Application is disposed of accordingly.

14. 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.]