

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

CRIMINAL BAIL APPLICATION NO. 861 OF 2024

Sunil Dattatray Kadu ...Applicant
Versus
State Of Maharashtra ...Respondent

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Ms. Shubhangi Parulekar, Advocate for the Applicant.

Ms. K. T. Hivrale, APP for the Respondent – State.

Mr. Appasaheb Padalkar, PSI, Velha Plice Station Pune Rural.

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CORAM : PRAKASH D. NAIK, J.
DATE : 28th MARCH, 2024.

P.C.:

1. The Applicant is seeking bail in connection with C.R. No.63 of 2018 registered with Velha Police Station for offence under Section 302 r/w 34 of Indian Penal Code (for short 'IPC').

2. The prosecution case is that complaint was lodged by Smt.Ashwini Ganesh Balge alleging that on 8th July 2018 when she had visited the house of her mother, she did not notice her brother Yogesh and hence she made inquiries about his whereabouts. Complainant's mother told her that Yogesh had left the house informing her that he is meeting Sunil Dattatraya Kadu at Warje Bridge. However, he did not return home. The complainant called

Yogesh on his cell phone. However, it was found switched off. The complainant then gave a call to Sunil Kadu. He informed her that he has come to Pune from Mumbai for the purpose of work. He also stated that Yogesh met him in the morning at Warje Bridge and thereafter he has left with his friends. The complainant made inquiry with friends of Yogesh. However, she could not get the required information about the whereabouts of Yogesh. On 9th July 2018, the complainant made inquiry in the company where her brother Yogesh was working. She inquired with his friends but she could not get any information. She again gave call to Sunil Kadu. He informed her that Yogesh was having illicit relationship with his niece Sujata Shinde. This was informed to him by husband of Sujata Mr.Mandar Shinde. Hence, on 8th July 2018, Sujata and Yogesh were called at Warje Bridge and thereafter Mandar, Sujata, Yogesh and he himself left together in Alto Car at Khadakwasala. Thereafter they had a discussion and advice was given to Yogesh and Sujata and thereafter he went to Mumbai. On 9th July 2018 at about 5 pm, complainant received information from the Police that one injured person is found in the area of Warasgaon Dam and he has been brought to Sasoon Hospital for treatment. The complainant visited Sasoon Hospital and noticed that her brother Yogesh was brought to Sasoon Hospital. He was declared dead.

She made further inquiries and learnt that on 8th July 2018 at about 10 to 10.30 am, Yogesh was called by Sunil Kadu and thereafter the accused had acted in connivance with each other and on suspecting that he was in relationship with Sujata, he was killed by the accused by hitting him by stone on his head.

3. The Applicant preferred for bail before this Court which was numbered as Criminal Bail Application No.2624 of 2019. The said application was rejected vide Order dated 10th February, 2020.

4. The Applicant preferred another application for bail viz. Criminal Bail Application (St) No.7712 of 2020 which was withdrawn vide Order dated 1st November, 2023.

5. Learned Advocate for the Applicant submitted that the case is based on circumstantial evidence. The Applicant is in custody from 10th July, 2020. The trial is not included immediately. Charge was framed. The first witness was examined in 2022. There is no progress in the trial. There is no evidence to last seen together. There is no eye witness to the incident. The prosecution is relying upon the evidence of CDR and tower location. The Applicant is residing in the same locality where the victim resides. The prosecution had proposed to examine 38 witnesses.

6. Learned APP submitted that the previous application for bail was rejected by this Court. There is no change in circumstance. There is strong circumstantial evidence against the Applicant. There is evidence of last seen together. The Accused are delaying the trial. The offence is of serious nature.

7. The Applicant is in jail for a period about five years and nine months. The case is based on circumstantial evidence. The trial had commenced. However, it is proceeding at slow pace. Prosecution had proposed to examine 38 witnesses. It is difficult to say that the trial would be over within short span of time. Considering the period of custody and bleak chance of trial being concluded immediately, the Applicant deserves to be released on bail. The Roznama of the proceedings indicate that the Applicant has not delayed the trial. The witness was absent on several dates. Considering the aforesaid circumstances, the Applicant can be released on bail.

ORDER

- i. Criminal Bail Application No.861 of 2024 is allowed;
- ii. The Applicant is directed to be released on bail in connection with C.R. No.63 of 2018 registered with Velha

Police Station, Pune on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

iii. The Applicant shall not enter the jurisdiction of Velha Police Station, Taluka Velha, District Pune, except for attending the trial Court proceedings.

iv. Application stands disposed off.

(PRAKASH D. NAIK, J.)