

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

BAIL APPLICATION NO. 1142 OF 2024

Vahasim Abdul Kadir

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Gaurav Parkar a/w. Mr. Krutik Veera, Advocates, for the Applicant.

Ms. Savita Yadav, APP, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 06.05.2024

P. C.

1. Heard Mr. Parkar, 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.	470 of 2019
2.	Date of registration of F.I.R.	10.11.2019
3.	Name of Police Station	Panvel City-Raigad District
4.	Sections invoked	302, 309 r/w 34 of I.P.C., 1860
5.	Date of incident	09.11.2019
6.	Date of arrest	03.12.2019
7.	Date of filing of Charge-sheet	21.01.2020

3. As per the prosecution case, there are two accused persons. The present Applicant-Vahasim Kadir is Accused No.2. The present Applicant and Accused No.1-Liji Rijosh Kuriyan are permanent

residents of Kerala. Accused No.1 was married to Rijosh Vincent-brother of the Informant. The Applicant was a friend of the husband of Accused No.1. The Applicant and Accused No.1 were in a relationship outside of marriage. As the husband of Accused No.1 had the habit of assaulting Accused No.1, the Accused No.1 and the present Applicant murdered the husband of Accused No.1. After committing the said offence, the Applicant and the Accused No.1 absconded from Kerala carrying the daughter of Accused No.1. After absconding, the Applicant and Accused No.1 along with the daughter of Accused No.1 arrived at Panvel City, District-Raigad and checked into 'Sameer Lodge'. On 10.11.2019, the Applicant and Accused No.1 were found in an unconscious condition as both of them had consumed lethal poisonous insecticide. The daughter of Accused No.1 was also forced to consume the same insecticide which resulted in her death. The Applicant was in the hospital from 10.11.2019 to 03.12.2019 and he was arrested in this case on his discharge from the hospital.

4. It is the contention of Mr. Parkar, learned Counsel for the Applicant that the Applicant was in the hospital for about 23 days and he was in fact on ventilator. He submitted that Accused No.1 was also in the hospital from 10.11.2019 till 26.11.2019 and that she has been released on bail. He therefore submitted that the Applicant be released on bail. Insofar as the case lodged in Kerala is concerned, the Applicant has been released on bail by Order dated 28.05.2020

passed by the learned J.M.F.C., Nedumkandam.

5. On the other hand, Ms. Yadav, learned APP vehemently opposed the Bail Application. She submitted that the present Applicant has played a major role in the offence in question, as he had purchased the lethal poisonous chemical which was used in the incident in question. She submitted that even the 2 and ½ year old daughter of Accused No.1 was forced to consume the said lethal chemical. Mr. Yadav therefore prayed that the Bail Application be rejected.

6. A perusal of the record shows that the incident in question has taken place on 09.11.2019. The F.I.R. was registered on 10.11.2019. The Applicant was arrested on 03.12.2019. The Charge-sheet was filed on 21.01.2020. Till date, there is no progress in the trial. Even the charge has also not been framed yet. The Applicant is incarcerated since about four years and six months.

7. *Prima facie*, there is substance in the contention raised by Mr. Parkar, learned Counsel for the Applicant that the Applicant had also tried to die by suicide and the Applicant in fact was being treated in the hospital for about 23 days and he was on ventilator for a few days.

8. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

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 - Vahasim Abdul Kadir be released on bail in connection with C. R. No.470 of 2019 registered with the Panvel City Police Station, District-Panvel 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 City Police Station, District-Panvel as and when called for by the Investigating officer.

(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 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.

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.]