

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

CRIMINAL BAIL APPLICATION NO. 1277 OF 2023

Sanket Raju Hole

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyam Harshad Nimbalkar i/by Mr. Abhishek Ulhas Arote,
Advocate for the Applicant.

Ms. S.S. Kaushik, APP for Respondent- State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 27th February 2024

P. C.

1. Heard Mr. Nimbalkar, learned Counsel appearing for the Applicant and Ms. Kaushik, 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.	91 of 2021
2.	Date of registration of F.I.R.	1 st April 2021
3.	Name of Police Station	Jejuri, District-Pune
4.	Section/s invoked	302, 120B r/w. 34 of the <i>Indian Penal Code, 1860</i> .
5.	Date of incident	1 st April 2021
6.	Date of arrest	9 th April 2021

3. Although the incident in question appears to have been

caused due to rash and negligent driving by the Applicant, as per the prosecution case, the Accused No.3 - Kiran Sumant Jedhe was in a relationship with the deceased - Sunita Morale, some quarrel took place between them about 6-7 months earlier and therefore the Accused No.3 - Kiran Jedhe decided to kill the deceased - Sunita Morale. For that purpose, he hatched a conspiracy along with the Accused No.2 - Ranjit Jedhe, who is his cousin and with the Applicant, who is friend of Accused No.3 - Kiran. Thus, as per the prosecution case the present Applicant actually executed the said conspiracy and killed said deceased Sunita by showing the incident as road accident. In the incident in question wife of the Applicant was also killed.

4. Mr. Nimbalkar, learned Counsel appearing for the Applicant submitted that the Applicant is in the custody since 1st April 2021 and till date there is no progress in the trial and that even the charge is not framed yet. He further submitted that there are total three Accused and except the present Applicant, the other two Accused have been released on bail. He submitted that the main conspirator i.e. Accused No.3 - Kiran Jedhe has been released on bail by a learned Single Judge (Coram : P.D. Naik, J.) by Order dated 12th October 2022 passed in Bail Application No.73 of 2022. He submitted that in fact the position on record shows that it was a case of rash and negligent driving and

thereafter improvements were made. He submitted that there is variance in the statement of the Informant on the basis of which an F.I.R. has been lodged and his supplementary statement.

5. On the other hand, Ms. Kaushik, learned A.P.P. strongly opposed the Bail Application. She submitted that the other two Accused to whom bail has been granted, were not present on the spot and that the Applicant has the main role in the incident. She submitted that the car which was used in the offence was not having a registration number plate. She submitted that two woman have been killed in the incident which was so-called car accident. However, in fact the intention was only to kill the deceased - Sunita Morale. She submitted that in the test identification parade, the Applicant has been identified by the complainant and therefore the Bail Application be rejected.

6. Perusal of the record shows that the incident in question occurred on 1st April 2021, F.I.R. was lodged on 1st April 2021 and the Accused was arrested on 9th April 2021. Till date, there is no further progress in the trial. Even the charge is not framed yet. As per the Charge-sheet there are 22 witnesses proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

7. Apart from that, as per the prosecution case, the main conspirator is Accused No.3 - Kiran Jedhe who has been released

on bail by Order dated 12th October 2022 by a learned Single Judge. The relevant paragraph nos.3 to 5 of the said order read as under:

"3. Learned Senior Advocate Mr. Mundargi submitted that there is no evidence to substantiate the prosecution case that the applicant is conspirator in committing crime. He was not found at the place of incident. The statements of the daughters of the deceased Sunita Morale would at the most indicate that the applicant was closely acquainted with Sunita Morale. The motive to kill Sunita Morale is attributed to the applicant on the basis of alleged quarrel between Sunita Morale and the applicant occurred about 7 to 8 months ago. The prosecution is relying upon the C.D.R. and it is alleged that there were calls between the applicant and accused No. 2 Ranjit Jedhe. Accused No.2 Ranjit Jedhe is the cousin of the applicant and calls between them could not be evidence to establish offences. Statement of Sachin Jadhav refers to the fact that he had sold the car to Sanket Hole. Irfan is the owner of hotel. No adverse inference could be drawn against applicant on their version. The applicant is in custody for substantial period.

4. Learned APP submitted that the investigation revealed that the applicant was in relationship with deceased Sunita Morale an account of dispute between them. She was killed at the instance of Sanket Hole and Ranjit Jedhe. The dash of car resulted in death of two persons. The prosecution is relying upon statement of the daughters of deceased Sunita Morale. There were mobile phone calls between the applicant and accused No.2. Ranjit Jedhe. The cell phone of the deceased also indicate that there were calls between the applicant and the deceased.

5. *The case of the prosecution is that the applicant is conspirator in the crime. However, the circumstances relied upon by the prosecution prima facie is not strong enough to establish his involvement. The quarrel referred by the daughters of the deceased Sunita Morale had occurred about 7 to 8 months ago. The statements of the daughters of the deceased indicate that the applicant was acquainted with their mother and he was frequently visiting their house. The fact that the quarrel had occurred 7 to 8 months ago, prima facie does not indicate strong motive to liquidate the deceased. Undisputedly the applicant was not seen around place of incident. The F.I.R. is silent about presence of Sanket Hole and Ranjit Jedhe near the spot of incident. The supplementary statement of the complainant was recorded on 8th April, 2021. The applicant and accused No.2 Ranjit Jedhe are cousins. Assuming that there are call between them adverse inference against applicant is debatable. The applicant is in custody for substantial period of time."*

8. Thus, it is clear that the main conspirator at whose instance it is the allegation that the Applicant has killed the deceased by showing the incident as an accident, has been released on bail.

9. The Applicant does not appear to be at risk of flight.

10. The Applicant does not have any criminal antecedents.

11. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant - Sanket Raju Hole be released on bail in

connection with C. R. No.91 of 2021 registered with the Jejuri Police Station, District- Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two 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 Jejuri Police Station, District - Pune on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(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 not visit the house of deceased and shall not try to approach the daughters of the deceased Sunita Morale and any other witnesses.

(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.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]