

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

CRIMINAL BAIL APPLICATION NO. 1668 OF 2024

Ganesh @ Sameer Hanumant Kharat	..Applicant
Versus	
The State of Maharashtra	..Respondent

Mr. Nagesh Khedkar a/w. Yogiraj Swami, Hrishikesh Avhad and
Nitin Mavale Patil for Applicant.

Ms. Rajeshree V. Newton, APP for State/Respondent.

**CORAM :- SARANG V. KOTWAL, J.
DATE :- 7 MAY 2024**

P.C. :-

1. The Applicant is seeking his release on bail in connection with C.R.No.376 of 2019 registered at Walchand Nagar Police Station, Pune Rural, on 03.09.2019, under Section 302 of the IPC.

2. Heard Mr. Nagesh Khedkar, learned counsel for the applicant and Ms. Rajeshree Newton, learned APP for the State.

3. The F.I.R. is lodged by one Malan Potphode in respect of murder of her daughter Ashwini committed on 02.09.2019. The

applicant was arrested on 05.09.2019 and since then he is in custody. The prosecution story is reflected in the charge-sheet. The investigation is already over and the charge-sheet was filed on 02.12.2019. The applicant had previously approached this Court vide the Criminal Bail Application No.125 of 2020. At that time, nobody had appeared for the applicant and it was dismissed for default on 17.07.2021. No efforts were made to get the matter restored or to file a fresh application immediately. After that, for the first time, the applicant has approached this Court with fresh bail application.

4. The informant Malan was married to her husband about 20 to 22 years ago. She had three daughters and two sons from that marriage. Ashwini was the youngest of them. The informant's husband was addicted to liquor. He was not looking after the informant. Therefore, she had left her husband and had started residing with the present applicant since about 12 years prior to the F.I.R. Her elder daughters are married. The informant was residing with her two sons and Ashwini. The applicant had objection for Ashwini having friendly relations with one Amol

Khude. Ashwini was studying in 8th standard. She was Fifteen years of age.

5. On 02.09.2019, at about 12:00p.m. the applicant saw Ashwini talking with Amol. The applicant brought Ashwini home and told her not to talk with Amol. According to him, the villagers were passing humiliating remarks against him because of that. In the same night at around 8:00p.m. the applicant took the informant and Ashwini on his two wheeler in a forest. He started assaulting Ashwini with a wooden stick made from branch of a tree. He assaulted her on her legs and forehead. Ashwini started bleeding. She was brought home and then she was taken to the hospital. However, she succumbed to her injuries. On these allegations the F.I.R. was lodged. The investigation was carried out and the applicant was arrested on 05.09.2019. During investigation, statements of three eye witnesses were recorded.

6. Learned counsel for the applicant submitted that, there was no intention to commit murder of Ashwini. The offence could be a lesser offence. The applicant is in custody since September 2019. He, therefore, deserves to be released on bail. The

statements of the eye witnesses are recorded after about four days.

7. Learned APP opposed these submissions. She submitted that the informant had tried to save the applicant to some extent, but the statements of the eye witnesses are quite important.

8. I have considered these submissions. I was informed by the learned counsel for the applicant that the Charges are framed on 27.02.2024. The charge-sheet shows that there are eye witnesses to the incident namely Kiran Bhosale, Somnath Jadhav and Ganesh @ Kuldeep Pandurang Kharat. Their statements are consistent.

9. Kiran Bhosale has stated that on 02.09.2019 he was asked by the applicant to come to the forest. He went there. He saw that the informant was standing nearby. The applicant had tied Ashwini's hands and legs and he was assaulting her with a stick. He told Kiran that Ashwini was found talking to Amol and, therefore, he was assaulting her. Kiran and others tried to stop him, but he did not listen to them and continued beating her. He

also assaulted Ganesh when he tried to intervene. Then the applicant asked them to go away. The eye witnesses thereafter came back.

10. The statement of Somnath is almost similar and Ganesh has also corroborated the other two eye witnesses. Amol Khude has stated that on 02.09.2019 the applicant had seen him talking with Ashwini.

11. Therefore, at this stage, there is sufficient material against the present applicant. The question is whether the offence would be that of murder or a lesser offence. For that purpose, the postmortem notes can be seen. There is one CLW over left eyebrow. It was a deep wound. There were multiple CLWs over forehead. There were CLWs and multiple abrasions on both legs and on the back. There was skull fracture and there were multiple injuries over the scalp. The cause of death was mentioned as 'death due to multiple injuries over head and over multiple sites, due to hemorrhagic shock, due to cardio respiratory arrest'. Thus, it can be seen that a Fifteen year old girl was brutally, mercilessly

and cruelly assaulted by the applicant all over her body after tying her hands and legs. This act displays extreme depravity on his part. There are at least four eye witnesses to the incident. There was skull fracture, therefore, it is not as if the deceased was merely assaulted on her legs. Serious injuries were caused to her head. She was taken to forest and then she was assaulted. Therefore, though the applicant is in custody since 05.09.2019, looking at the cruel manner of assault, strong material against the applicant and the age of the victim, I am not inclined to grant bail to the present applicant. At the same time, since the charges are framed, there should not be any delay in the conduct of the trial either. Therefore, some directions are also necessary, so that, the trial is conducted expeditiously.

12. Hence, the following order.

ORDER

- i) The Application is rejected.
- ii) The Trial Court shall take special efforts to conduct the trial on a day to day basis and shall try to conclude it within a period of six months

from today.

- iii) The prosecuting agency, as well as, the accused shall co-operate with the early disposal of the trial.
- iv) With these observations the application is disposed of.

(SARANG V. KOTWAL, J.)