



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1294 OF 2023

Jayanta Suresh Kolkhekar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket Nikam i/b. Mr. Amit Icham, Advocates for the Applicant.
Ms. Veera Shinde, APP for the Respondent-State.
Mr. A. S. More, A.P.I., Khandeshwar Police Station, Navi Mumbai
present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 20th FEBRUARY 2024

PC:-

1. Heard Mr. Nikam, learned Counsel appearing for the Applicant and Ms. Shinde, 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.	144 of 2022
2.	Date of registration of F.I.R.	24/05/2022

3.	Name of Police Station	Khandeshwar Police Station, District-Raigad
4.	Section/s invoked	302 of the I.P.C., 1860
5.	Date of incident	Between 22/05/2022 to 23/05/2023
6.	Date of arrest	25/05/2022
7.	Date of filing of Charge-sheet	16/08/2022

3. As per the prosecution case, the husband of the deceased had died on 29th April 2021 due to COVID-19. The husband of the deceased was an auto-rickshaw driver and he owned an auto-rickshaw. The deceased had given the said auto-rickshaw to the Applicant on a rental basis. It appears that thereafter the Applicant and the deceased developed a relationship. As per the prosecution case, the deceased called the Applicant to the place of the incident which is on 3rd floor of an under-construction building. The deceased was insisting that the Applicant should marry her and the Applicant was refusing the same. The incident has occurred on the intervening night of 22nd May 2022 and 23rd May 2022. As per the prosecution case, the Applicant had strangled the deceased with a scarf belonging to the deceased.

4. Mr. Nikam, learned Counsel appearing for the Applicant submitted that the Applicant and the deceased were in relationship and as the deceased was insisting that the Applicant should marry her, there was some dispute between them and out of a sudden quarrel, the Applicant strangled the deceased with a scarf belonging to the deceased. He submitted that the Applicant was not armed with any weapon. The incident was not premeditated and occurred in a spur of the moment. He submitted that the case is of circumstantial evidence and except for the recovery of cell phone of the deceased and scarf of the deceased at the instance of the Applicant, there is no other incriminating material against the Applicant.

5. On the other hand, Ms. Shinde, learned APP appearing for the Respondent-State strongly opposed the Bail Application. She submitted that the C.D.R. report shows that the location of the Applicant and that of the deceased at the time of the incident is same i.e. place of incident in question. She submitted that there is a recovery of a scarf belonging to the deceased as well as of a cell phone of the deceased at the instance of the Applicant. There is a strong motive, as the Applicant was in a relationship with the

deceased and as the deceased was insisting on marrying the Applicant, the Applicant was refusing the same. She pointed out the statement of the daughter (Page 83) of the deceased as well as the statement of the friend of the deceased - Aakash Raju Pawar (Page 113) and therefore, submitted that there are strong and incriminating circumstances substantiating the role of the Applicant.

6. Perusal of the record shows that the prosecution case is that the Applicant and the deceased were in relationship and as the deceased was insisting to marry the Applicant, the Applicant was refusing the same therefore the incident in question has occurred. *Prima facie*, there is substance in the contention of Mr. Nikam, learned Counsel appearing for the Applicant that the offence has occurred in a spur of the moment. The Applicant was not armed with any weapon.

7. The incident has occurred on the intervening night of 22nd May 2022 and 23rd May 2022, F.I.R. has been lodged on 24th May 2022, the Applicant has been arrested on 25th May 2022 and Charge-sheet has been filed on 16th August 2022. As per the

Charge-sheet there are 55 witnesses proposed to be examined by the prosecution. Mr. Nikam, learned Counsel appearing for the Applicant submitted that there is no progress in the trial and even the charge is also not framed yet. The Applicant is incarcerated since 25th May 2022. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

8. There are no criminal antecedents against the present Applicant.

9. Ms. Shinde, learned APP appearing for the Respondent-State submitted that as two minor children of the deceased are residing with their grandparents at village Adai, Mandai Niwas, Taluka-Panvel, District-Raigad, if this Court is inclined to grant bail as the said place is in Raigad district and near Mumbai City/Mumbai Suburban districts, appropriate conditions be imposed.

10. Mr. Nikam, learned Counsel appearing for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant and two minor children of the deceased are residing with their grandparents at village Adai, Mandai Niwas,

Taluka-Panvel, District-Raigad, the Applicant will therefore not reside within Mumbai City, Mumbai Suburban and Raigad districts and that the Applicant will reside at C/o. Shailesh Tukaram Patil, Pimplas, Taluka-Wada, District-Palghar, Maharashtra 421303.

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

12. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

13. In view thereof, the following order:-

ORDER

(a) The Applicant-Jayanta Suresh Kolkhekar be released on bail in connection with C. R. No.144 of 2022 registered with the Khandeshwar Police Station, Taluka-Panvel, District-Raigad on his furnishing P. R. Bond of Rs.25,000/- with two solvent sureties in the like amount.

(b) The Applicant shall not enter the Mumbai City,

Mumbai Suburban and Raigad districts 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 Wada Police Station, Taluka-Wada and District-Palghar once every 15 days, on Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Wada Police Station, Taluka – Wada and District – Palghar 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.

14. The Bail Application is disposed of accordingly.

15. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its own merits and uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]