

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2209 OF 2023

Pravin Gulab Varpe)
(Presently Lodged at Yerwada Central Jail))
Aged 31 years, Occupation Nil)
Residing at Behind Power House,)
Varpe House, Gajanan Nagar, Fursungi,)
Hadapsar, Pune)... Applicant

Versus

The State of Maharashtra)
Through Hadapsar Police Station)
In C.R. No. 900 of 2020)... Respondent

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Ms. Sana R. Khan a/w. Mr. Aditya Parmar a/w. Priithviraj Deshmukh
i/by Mr. Nagesh S. Khedkar for Applicant
Mr. S.V. Gavand, APP for the State.

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CORAM : N.R. BORKAR, J.

RESERVED ON 16th FEBRUARY, 2024.
PRONOUNCED ON 2nd MARCH, 2024

P.C.

1. This is an Application filed under Section 439 of Code of Criminal Procedure for bail.
2. The Applicant came to be arrested in Crime No. 900 of 2020 registered with Hadapsar Police Station for the offences punishable under Section 302 r/w. 34 of the Indian Penal Code, Section 37(1), 135

of Maharashtra Police Act and Section 4 r/w. 25 of Arms Act.

3. According to the prosecution, there was enmity between the deceased Shohaib Shaikh and co-accused Jeevan Kamble. It is alleged that, due to said enmity, on the date of incident which took place on 22nd May, 2020, the co-accused Jeevan Kamble along with the present Applicant and other co-accused assaulted the deceased by sword and sickle and committed his murder.

4. I have heard learned counsel for the Applicant and learned APP for the State.

5. Learned counsel for the Applicant submits that no specific overt act is attributed to the present Applicant. It is submitted that motive for the alleged crime is attributed to co-accused. It is further submitted that the Applicant is in jail for about 4 years and the trial is still at the stage of framing of charge.

6. On the other hand, the learned APP for the Respondent-State submits that the Applicant is involved in serious crime of brutal murder. It is submitted that, there are eye witnesses to the incident, who have stated that the present Applicant assaulted the deceased by sickle. It is further submitted that the Applicant is involved in 4 more crimes of assault. The learned APP submits that apart from merits, the Applicant does not deserve to be released on bail as he has made all sorts of incorrect statements in previous application filed by him for bail before this Court and the trial Court. It is submitted that, the application filed before this Court was withdrawn and thus this Court was pleased to

dismiss the said application as withdrawn. In spite of it, the application was filed before the Trial Court by making incorrect statement that the application before this Court was not argued on merits. It is submitted that, in the present application also incorrect statement is made that there are no other criminal antecedents. It is submitted that considering the over all facts and circumstances, the Applicant may not be released on bail.

7. I have perused the charge-sheet. The deceased was brutally assaulted. During the postmortem examination, 32 incised/ chop injuries were found on the person of the deceased. The eye witnesses to the incident have stated that, the present Applicant assaulted the deceased by sickle.

8. Considering the overall facts and circumstances of the case, I am not inclined to release the Applicant on bail.

9. Hence, the following order is passed:

ORDER

- (i) Criminal Bail Application No. 2209 of 2023 is rejected.
- (ii) However, considering the fact that the Applicant is in jail for about four years, the Trial Court shall make an endeavor to conclude the trial as early as possible.

(N.R. BORKAR, J.)