

Arjun

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

BAIL APPLICATION NO.1176 OF 2023

Md. Salim Nazir Khan

...Applicant

Versus

State of Maharashtra

...Respondent

**WITH
INTERIM APPLICATION NO.2824 OF 2023
IN
BAIL APPLICATION NO.1176 OF 2023**

Md. Salim Nazir Khan

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Yashodeep P. Deshmukh a/w Ms. Vaidehi Pradeep, for the Applicant.

Mr. Shriram S. Chaudhari, APP, for the Respondent-State.

Mr. Prashant Relekar, P.S.I., Talegaon M.I.D.C. Police Station, Pimpri Chinchwad, present.

**CORAM : MADHAV J. JAMDAR, J.
DATED : MARCH 04, 2024**

P.C.:

1. Heard Mr. Deshmukh, learned Counsel appearing for the Applicant and Mr. Chaudhari, learned APP for the Respondent-State.

2. The present Application seeking bail has been filed through Jail and the same was received by the Registry of this Court on 29th November 2023. It appears that earlier the Applicant has filed Criminal Bail Application No.2297 of 2023 through Advocate on 7th August 2023. This Court has already granted bail to the Applicant by Order dated 1st February 2024 in Criminal Bail Application No.2297 of 2023. The said Order is as under:-

"1. Heard Mr. Bhonde, learned Counsel appearing for the Applicant and Mr. Gaikwad, 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:-

<i>1</i>	<i>C. R. No.</i>	<i>78 of 2018</i>
<i>2</i>	<i>Date of Registration of F.I.R.</i>	<i>13/07/2018</i>
<i>3</i>	<i>Name of Police Station</i>	<i>Talegaon M.I.D.C. Police Station, Pune</i>
<i>4</i>	<i>Section/s invoked</i>	<i>302 r/w. 201 of the I.P.C.,1860</i>
<i>5</i>	<i>Date of Incident</i>	<i>12/07/2018- 13/07/2018</i>
<i>6</i>	<i>Date of Arrest</i>	<i>23/09/2018</i>
<i>7</i>	<i>Date of filing of Charge-sheet</i>	<i>19/12/2018</i>

3. *As per the prosecution case, the First Informant who is the Police Naik attached to Talegaon M.I.D.C. Police Station, Pune on 13th July 2018 at around 12.30 p.m. received an information from Police Naik Kachole that a dead body is lying along the roadside near Bhapkarmala, Tolani Colony, Indori. Accordingly, C.R. No.78 of 2018 was registered for the offence punishable under Section 302 r/w. 201 of the Indian Penal Code, 1860 against an unknown person.*

4. *During the investigation it was found that the dead body is of Deepak @ Ganesh Jarag and his mobile phone was missing. Thereafter, the investigating agency obtained the CDR and SDR details of the said phone number. During investigation it was revealed that present Applicant has used his S.I.M. card in the device owned by the deceased. It was further revealed that the said mobile phone was further given by the Applicant to his friend.*

5. *On the basis of the above information, the present Applicant was arrested on 23rd September 2018. Thereafter, a broken mobile screen guard, purportedly that of the mobile phone of deceased was recovered at the instance of the Applicant.*

6. *It is the contention of Mr. Bhonde, learned Counsel appearing for the Applicant that this is a case of circumstantial evidence. He submits that except the circumstance that the Applicant had used his S.I.M. card*

in the mobile phone owned by the deceased and there is recovery of a broken mobile screen guard, purported to be that of the deceased at the instance of the Applicant, there is no other incriminating circumstance. He further submitted that case is of circumstantial evidence and even if these two circumstances are established, then also by no stretch of imagination, the Applicant can be held responsible for the death of the deceased. He also submitted that there are no criminal antecedents against the Applicant. He further submitted that the Applicant was apprehended on 23rd September 2018 and for 5 years and 4 months the Applicant is behind bar. He submitted that the last witness was examined on 11th October 2023.

7. Mr. Gaikwad, learned APP strongly opposed the Application. He submitted that although the case is of circumstantial evidence, the material on record clearly shows the involvement of the Applicant in the crime. He further submitted that the trial has already commenced and 3 witnesses are examined.

8. Perusal of the prosecution case as reflected in the F.I.R. and statement of the witnesses shows that this is a case of circumstantial evidence. The Applicant is incarcerated since 23rd September 2018 i.e. more than 5 years and 3 months.

9. As per the Charge-sheet there are about 28 witnesses. It is true that trial has commenced and 3

witnesses are examined, however, it is to be noted that last witness was examined on 11th October 2023. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

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

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

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

ORDER

(a) The Applicant-Mohammad Salim Nazar Khan @ Sonvirsinha Vishwambharsinha Chokar be released on bail in connection with C. R. No.78 of 2018 registered with the Talegaon M.I.D.C. Police Station, Taluka-Maval, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one local solvent surety in the like amount.

(b) On being released on bail, the Applicant shall furnish his local address before the learned Trial Court.

(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 Talegaon M.I.D.C. Police Station, Taluka-Maval, District-Pune once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial.*
- (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 evidence and shall not contact or influence the Complainant or any witnesses 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.*

13. *The Bail Application is disposed of accordingly."*

This Court has noticed that the Applicant is in Jail since 23rd September 2018 and *inter alia* the bail was granted on that ground.

3. Mr. Deshmukh, learned Counsel appointed to represent the Applicant states that although the Applicant has been granted bail by Order dated 1st February 2024, the Applicant could not avail the said bail as he is not able to arrange the local solvent surety.

4. Mr. Chaudhari, learned APP, on instructions, states that the Applicant could not avail the bail.

5. Accordingly, Clause No.12(a) of the Order dated 1st February 2024 is modified in the following terms :

“(a) The Applicant-Mohammad Salim Nazar Khan @ Sonvirsinha Vishwambharsinha Chokar be released on bail in connection with C. R. No.78 of 2018 registered with the Talegaon M.I.D.C. Police Station, Taluka-Maval, District-Pune on his furnishing P. R. Bond of Rs.10,000/- with one or two sureties in the like amount.

(a-1) The Applicant is permitted to give cash sureties for a period of two months in lieu of sureties.”

6. It is clarified that all other conditions of Order dated 1st February 2024 shall remain same. Accordingly, the Applicant is

enlarged on bail on the following terms:-

ORDER

- (a) The Applicant-Mohammad Salim Nazar Khan @ Sonvirsinha Vishwambharsinha Chokar be released on bail in connection with C. R. No.78 of 2018 registered with the Talegaon M.I.D.C. Police Station, Taluka-Maval, District-Pune on his furnishing P. R. Bond of Rs.10,000/- with one or two sureties in the like amount.
- (a-1) The Applicant is permitted to give cash sureties for a period of two months in lieu of sureties.
- (b) On being released on bail, the Applicant shall furnish his local address before the learned Trial Court.
- (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 Talegaon M.I.D.C. Police Station, Taluka-Maval, District-Pune once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial.
- (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 evidence and shall not contact or influence the Complainant or any witnesses 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.

7. Thus, for the above reasons, the Applicant is enlarged on bail by relaxation of some conditions imposed by Order dated 1st February 2024 passed in Criminal Bail Application No.2297 of 2023.

8. The present Bail Application is disposed of in the above terms.

9. The Authorities to take steps immediately.

10. In view of the disposal of the Bail Application, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]