

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

BAIL APPLICATION NO. 2404 OF 2023

Yogesh Nandkumar Bhosale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi i/b Samay Pawar for the Applicant.
Ms. S. S. Kaushik, APP for the State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 07.05.2024

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1. Heard Mr. Satyavrat Joshi , learned Counsel for the Applicant and Ms. Kaushik, learned APP 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.	560 of 2021
2.	Date of registration of F.I.R.	30.11.2021
3.	Name of Police Station	Tasgaon, District-Sangli
4.	Sections invoked	302, 201 of the I.P.C., 1860
5.	Date of incident	29.11.2021 to 30.11.2021
6.	Date of arrest	02.12.2021
7.	Date of filing of Charge-sheet	23.02.2022

3. The prosecution case is that the deceased was married to one Ajay Chavhan in the year 2007 and this couple has a son from said wedlock. In the year 2011, the Applicant came in contact with the Deceased and a romantic relationship developed between them.

Therefore, the husband of the deceased objected to the same. The Applicant threatened the husband of the deceased and therefore the husband of the deceased told her that he would be leaving with their son to Ashta. Accordingly, in the year 2012, the husband of the deceased left the said residence and moved to Ashta along with his son. Thereafter the deceased and the Applicant started residing together. Although, the deceased had concieved with the Applicant, the Applicant kept giving assurances that he would marry the deceased, however, he was refusing to solemnise the marriage on one pretext or another and therefore an F.I.R. under Section 376 of the *Indian Penal Code, 1860* ("IPC") was lodged on 02.09.2015. Thereafter the deceased gave birth to a son. The father of the said child is the present Applicant. Thereafter the deceased started residing along with her two children behind Post office, Tasgaon. The Applicant used to frequently visit the said house. At that time, the Applicant was insisting that the deceased should not pursue the said criminal case and the deceased was firm that the said criminal case would be taken to its logical conclusion unless he married the deceased. It is the prosecution case that the Applicant murdered the deceased sometime between 29.11.2021 and 30.11.2021.

4. It is the submission of Mr. Joshi, learned Counsel for the Applicant that this is a case of circumstantial evidence and that except for the recovery of ladies footwear (page 88) and rope (page 99) at the instance of the Applicant, there is no other evidence. He

submits that the Applicant is incarcerated since 02.12.2021 and there is no progress in the trial till date. He submits that except said earlier antecedents i.e. the F.I.R. u/s 376 of the IPC lodged by the deceased against the Applicant, there are no other antecedents.

5. On the other hand, Ms. Kaushik, learned APP strongly opposed the Bail Application. She pointed out the statement of witness Vidya Chavan (page 114), the statement of the son of the deceased (page 112) and also pointed out the earlier F.I.R. lodged on 02.09.2015 (page 264). She therefore submitted that although the case is of circumstantial evidence, there is a strong motive attributed to the Applicant and there is evidence in the form of recovery of female footwear and recovery of rope at the instance of the Applicant. She therefore submitted that the Bail Application be rejected.

6. Perusal of the record shows that the incident in question took place on 29.11.2021, the offence was registered on 30.11.2021 and the Applicant was arrested on 02.12.2021. As per the charge-sheet, 30 witnesses are proposed to be examined by the prosecution. Except for framing of the charge, there is no progress in the trial. Thus the trial will take considerable time to conclude.

7. This is a case of circumstantial evidence. Although there is substance in the contention of Ms. Kaushik, learned APP, that there is a strong motive to commit the offence, however, except for the recovery of footwear and recovery of a rope, there are no other incriminating circumstances.

8. The Applicant has no antecedents except for the earlier F.I.R. lodged in the year 2015 by the deceased.
9. As most of the witnesses are from Sangli district and one of the witness is a minor son of the deceased, Mr. Joshi, learned Counsel for the Applicant, after taking instructions, states that the Applicant will reside at C/o. Dhyandeo Namdeo Jadhav, S.No.102-A, behind V Mart Building, Ujaliwadi, Taluka-Karveer, District-Kolhapur and he will not enter Taluka-Tasgaon, District-Sangli till the conclusion of the trial.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
11. In view thereof, the following order:

ORDER

- (a) The Applicant - Yogesh Nandkumar Bhosale be released on bail in connection with C. R. No.560 of 2021 registered with the Tasgaon Police Station, Sangli on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) After being released on bail, the Applicant shall not enter Taluka-Tasgaon, District-Sangli, till the conclusion of the trial, 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 Gokul Shirgaon Police Station, Taluka – Karveer, District – Kolhapur on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until 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 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.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]