

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

CRIMINAL BAIL APPLICATION NO. 2498 OF 2023

Sonu Pawan Sharma

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. S.R. Divekar, Advocate/s for the Applicant.

Mr. P.H. Gaikwad, APP for Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 12th February 2024

P. C.

1. Heard Mr. Divekar, 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:-

1.	C.R. No.	601 of 2022
2.	Date of registration of F.I.R.	14 th June 2022
3.	Name of Police Station	Kondhwa Police Station, Pune
4.	Section/s invoked	302, 201 r/w 34 of the <i>Indian Penal Code, 1860</i> .
5.	Date of incident	14 th June 2022
6.	Date of arrest	15 th June 2022

3. Accused No.3-Yashoda Sharma is the wife of deceased-Pawan Sharma. Accused No.1 (Applicant) is the son of deceased-Pawan Sharma and Accused No.2 is the cousin brother of Accused No.1. As per the prosecution case, the relations of deceased-Pawan Sharma and

Accused No.3-Yashoda Sharma were not cordial. The incident in question took place on 14th June 2022. As per the prosecution case, the Applicant i.e. Accused No.1 and the Accused No.2 killed the deceased by strangulation and thereafter Accused Nos. 1 and 2 disposed of the body at *Bopdev Ghat* near Pune.

4. Mr. Divekar, learned Counsel appearing for the Applicant submitted that the entire case is of circumstantial evidence. He submitted that the role of the present Applicant and Accused No.2 is the same and that Accused No.2 has been granted bail by Order dated 2nd June 2023 passed by the learned Additional Sessions Judge, Pune in Bail Application No.1285 of 2023. He submitted that therefore, the parity is applicable and the Applicant is entitled for grant of bail. He submitted that there are no antecedents.

5. On the other hand, Mr. Gaikwad, learned APP strongly opposed the Bail Application. He submitted that there is a C.C.T.V. footage, which shows the involvement of the Applicant in the offence in question. He submitted that there is a recovery of a two- wheeler vehicle which was used in the offence. Learned APP also submitted that the Applicant is from Madhya Pradesh and therefore he may not be available during the trial. On instructions, he submitted that there are no antecedents.

6. Perusal of the record shows that this case is of circumstantial evidence.

7. As far as the contention of Mr. Divekar, learned Counsel appearing for the Applicant regarding parity is concerned, the relevant discussion is in paragraph nos.8 and 9 of the Order dated 2nd June 2023 passed by the learned Additional Sessions Judge, Pune, which reads as under:-

“8. I have gone through the record of the case and the ration of above mentioned rulings. The entire prosecution case is based on circumstantial evidence. As per the prosecution case, accused No.1 and 2 had strangled the deceased with the help of nylon rope and thereafter carried his body on motorcycle and disposed it at Bopdev Ghat, Pune. There is no direct evidence of the commission of murder. It appears that prosecution heavily relied upon evidence of CCTV footage to show that accused No. 1 and 2 were carrying the dead body of deceased on motorcycle. It appears that investigation is complete and charge-sheet has been filed. It will take considerable time to conclude the trial. The present accused is in judicial custody for more than 11 months. Therefore, considering the facts and circumstances of the case and in view of above discussion, and ratio of the above mentioned rulings the further detention of accused in judicial custody appears to be unnecessary. The ratio of above mentioned ruling his helpful to the case of accused. Hence, it would be proper to release the accused on bail.

9. The prosecution has apprehended that accused is resident of Madhya Pradesh and he might abscond, if released on bail. So also, it is apprehended that accused might tamper with prosecution evidence and pressurise witnesses. This aspect can be taken care of by imposing stringent conditions on the accused. Therefore, considering the facts and circumstances of the case and in view of above discussion, it would be proper to release the accused on bail.”

Thus, the role of the present Applicant (Accused No.1) and the Accused No.2 is the same. Therefore parity is applicable.

8. As far as the C.C.T.V. footage and recovery of motorcycle used in the offence is concerned, the same is at the most only concerning destruction of evidence.
9. As per the Charge-sheet, there are about 20 witnesses proposed to be examined by the prosecution. The Charge is not yet framed. There is no progress in the trial. The trial is likely to take a considerably long time.
10. The Applicant does not have any criminal antecedents.
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 - Sonu Pawan Sharma be released on bail in connection with C. R. No.601 of 2022 registered with the Kondhwa Police Station, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) 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.
- (c) The Applicant shall report to the Kondhwa Police Station, District-Pune on the first Sunday of every week for three months and thereafter

once in 15 days until conclusion of trial between 11.00 a.m. and 1.00 p.m.

(d) 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.

(e) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) 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, uninfluenced by the observations made in this Order.

BHALCHANDRA
GOPAL
DUSANE

[MADHAV J. JAMDAR, J.]

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2024.02.12
19:13:28 +0530