

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

BAIL APPLICATION NO. 2536 OF 2023

Goraksh Baban Deshmukh

.Applicant

Versus

The State of Maharashtra

.Respondent

Ms. Shubhangi Parulekar, Advocate, for the Applicant.

Ms. Savita Yadav, APP, for the Respondent – State.

Mr. A. S. Chougule, PSI-Chakan Police Station, Pimpri-Chinchwad,
present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 12.04.2024

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1. Heard Ms. Parulekar, learned Counsel for the Applicant and Ms. Yadav, 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.	1581 of 2022
2. Date of registration of F.I.R.	06.10.2022
3. Name of Police Station	Chakan
4. Sections invoked	201, 302, 120B r/w. 34 of I.P.C., 1860; 4(25) of the Arms Act, 1959
5. Date of incident	29.08.2022
6. Date of arrest	06.10.2022
7. Date of filing of Charge-sheet	02.01.2023

3. The Applicant is the husband of the deceased. As per the

prosecution case, the Applicant suspected that the deceased was in a relationship outside of marriage with several persons. To substantiate the same, the prosecution has *inter alia* recorded the statement of one Santosh Dnyandeo Akot (Page No.130). It is further the case of the prosecution that although the Applicant repeatedly warned the deceased on several occasions to behave properly and not to indulge in such activities, yet the deceased continued with said relationships. Therefore, the Applicant, who is Accused No.1, paid some amount to Accused Nos.2 to 4 to commit the offence in question. It is the prosecution case that the offence in question was committed on 29.08.2022. A missing complaint was filed by the present Applicant. As per the prosecution case, Accused Nos.2 to 4 as well as Accused No.1 have assaulted the deceased and thereafter, tried to destroy the mortal remains of the deceased.

4. Ms. Parulekar, learned Counsel for the Applicant submitted that the case is of circumstantial evidence. There are no incriminating circumstances against the present Applicant. She submitted that even D.N.A. Report is awaited. Therefore, it is not even established that the mortal remains are of the deceased. She submitted that the Applicant is incarcerated since more than one year and eight months. Till date, there is no progress in the trial. There are no other antecedents. She also submitted that Accused No.5 has been released on bail and there is recovery of a dead body at the instance of Accused No.5.

5. On the other hand, Ms. Yadav, learned APP vehemently opposed the Bail Application. She submitted that there was a strong motive to commit the offence in question as the deceased was in a relationship outside of marriage with several persons. She submitted that there is recovery of a rope at the instance of the present Applicant. Accused No.5 is the father of the present Applicant. Therefore, no role is attributed to the Accused No.5. She therefore submitted that the fact that the father of the present Applicant has been released on bail is not relevant for deciding the present Bail Application. She submitted that the deceased was killed by the present Applicant and other Accused and the present Applicant filed a missing complaint to mislead the Police machinery. She, therefore, submitted that the Bail Application be rejected.

6. A perusal of the record shows that the incident in question occurred on 29.08.2022. The F.I.R. was lodged on 06.10.2022. The Applicant was arrested on 06.10.2022. The Charge-sheet was filed on 02.01.2023. As per the Charge-sheet, there are about 39 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even charge is also not framed yet. The trial is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention of Ms. Yadav, learned APP that there was a strong motive to commit the offence in question. However, the position on record shows that there are no incriminating circumstances against the Applicant.

8. The Applicant does not have any criminal antecedents.
9. The Applicant does not appear to be at risk of flight.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
11. In view thereof, the following order:-

ORDER

(a) The Applicant - Goraksh Baban Deshmukh be released on bail in connection with C. R. No.1581 of 2022 registered with the Chakan Police Station, Pimpri-Chinchwad on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall report to the Chakan Police Station, Pimpri-Chinchwad on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(c) 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.

(d) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(e) The Applicant shall attend the trial regularly. The

Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(f) 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 observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]