

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

BAIL APPLICATION NO.2539 OF 2023

Ajay Ramchandra Matera

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Sudeep Pasbola, Mr. Ayush Pasbola & Mr. Swaraj Sable,
Advocates, for the Applicant.

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

Mr. Manojkumar P. Patil, ASI-Manor Police Station, Palghar, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 28.03.2024

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1. Heard Mr. Pasbola, learned Counsel for the Applicant and Mr. Chaudhari, 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.	95 of 2022
2.	Date of registration of F.I.R.	24.03.2022
3.	Name of Police Station	Manor, District - Palghar
4.	Sections invoked	302, 120-B, 201 r/w. 34 of the I.P.C., 1860
5.	Date of incident	24.03.2022
6.	Date of arrest	29.03.2023
7.	Date of filing of Charge-sheet	25.06.2023

3. As per the prosecution case, there are in all five accused. The deceased is the husband of Accused No.1. Accused Nos.1 and 2 were in a relationship outside of marriage. Accused Nos.3 to 5 are the

friends of Accused No.2. The Applicant is Accused No.4. As per the prosecution case, due to the said relationship outside of marriage between Accused No.1 & Accused No.2, Accused No.2 on the pretext of showing a new project to the deceased, called him to Vartak Nagar and accordingly, the deceased reached there at about 6.30 p.m. on 23.02.2022. Thereafter, Accused Nos.2 to 4 alongwith the deceased travelled in an Innova car and after crossing Khanivade toll plaza, the Accused murdered the deceased by strangulating with a rope.

4. It is the contention of Mr. Pasbola, learned Counsel for the Applicant that the case is of circumstantial evidence, however, there are no incriminating circumstances against the present Applicant. He pointed out the statement of Pravin Narvat Chavan (Page No.73) showing that on 23.03.2023, the said car was seen at Khanivade toll naka at about 7.49 p.m.. He also pointed out the statement of one Santosh Lahu Kadam (Page No.70), wherein it is stated by the said witness that the deceased was seen on 23.03.2022 at 9.00 p.m. at the old school ground, Uthalsar, Vakarwadi. He, therefore, submitted that there is no incriminating material against the present Applicant. He submitted that Accused No.1 has been released on bail by this Court by Order dated 12.01.2024 passed in B.A. No.110 of 2024 and Accused No.5 has been released on bail by this Court by Order dated 21.04.2023 passed in B.A. No.2421 of 2022.

5. Mr. Chaudhari, learned APP for the Respondent – State vehemently opposed the Bail Application. He submitted that although

the case is of circumstantial evidence, there are strong circumstances. He pointed out the F.I.R. dated 24.03.2022 and submitted that on 24.03.2022 at 5.45 p.m., body of the deceased was found at Dungi Pada, Dahisar, Safale Road. He pointed out the statement of Dayanand Deju Shetty (Page No. 80) which shows that on 24.03.2022 at about 1.00 a.m. at night the present Applicant alongwith other Accused were seen to be at 'Panchali Bar and Restaurant' at Mulund Check Naka, Wagle Estate as per the CCTV footage. He pointed out the statement of Pravin Narvat Chavan (Page No.73) which shows that the car which was used for committing the offence in question was passing through the Gujarat lane near Khanivade toll plaza on 23.03.2022 at 7.49 p.m.. He pointed out the Recovery Panchanama (Page No.87) which shows that there is a recovery of rope at the instance of the present Applicant. He also pointed out the statements of Shripat Vasant Gaikwad (Page No. 68) as well as of Santosh Lahu Kadam (Page No. 70) and submitted that there is a strong motive to commit the offence in question as Accused No.1 i.e. wife of the deceased was in a relationship outside of marriage with Accused No.2 and that Accused Nos.3 to 5, who are friends of Accused No.2 have assisted him in committing the offence in question.

6. A perusal of the record shows that the incident in question has taken place on 24.03.2022. The Applicant was apprehended on 29.03.2023. Charge-sheet was filed on 25.06.2023. As per the

Charge-sheet, there are about 19 witnesses to be examined by the prosecution. There is no progress in the trial. Even charge is also not framed yet. The trial is likely to take a considerably long time.

7. The case is of circumstantial evidence. Mr. Pasbola, learned counsel appearing for the Applicant submitted that there are no incriminating circumstances. *Prima facie*, in view of the statement of Santosh Lahu Kadam (Page No.70) who has seen the deceased on 23.03.2022 at 9.00 p.m. near Uthalsar, Vakarvadi, near ground of old school i.e. near his residence, there is substance in the contention raised by learned counsel appearing for the Applicant that there is no incriminating material against the present 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 - Ajay Ramchandra Matera be released on bail in connection with C.R. No.95 of 2022 registered with the Manor Police Station, District - Palghar 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 Manor Police Station, District – Palghar on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(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 prosecution evidence and shall not contact or influence the Complainant or any witness 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.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the 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.]