

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

CRIMINAL BAIL APPLICATION NO.2596 OF 2023

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Ganuji *alias* Aba Ramesh Khandale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ranjeet M. Pawar, Advocate for the Applicant.

Ms. Veera Shinde, APP for Respondent- State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 14th February 2024

P. C.

1. Heard Mr. Pawar, learned Counsel appearing for the Applicant and Ms. Shinde, 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.	64 of 2023
2.	Date of registration of F.I.R.	29th January 2023
3.	Name of Police Station	Daund, District-Pune
4.	Section/s invoked	302, 397, 120(B), 201, 34 of the <i>Indian Penal Code, 1860</i> .
5.	Date of incident	28th January 2023
6.	Date of arrest	29th January 2023
7.	Date of filing Charge-sheet	27th April 2023

3. As per the prosecution case, on 28th January 2023, the deceased along with his friend Accused No.1-Kishor Khandale

went to meet Vaishali Kokate-sister of the deceased, residing at Kashti, Taluka-Shrigonda, District-Pune for bringing Rs.30,000/-. It is the case of the prosecution that while returning to the residence of deceased at Khandoba Nagar, Morgaon Road, Taluka-Baramati, District-Pune, Accused No.1-Kishor Khandale, Accused No.2-Shoobham Kamble, Accused No.4-Suraj Khandale and the deceased had a dinner together on the night of 28th February 2023 at 'Priyanka Bar and Restaurant', Kurkumbh and they all were present there for a considerable duration and thereafter in the morning on 29th January 2023 at about 9.00 am., dead body of the deceased was found.

4. Mr. Pawar, learned Counsel appearing for the Applicant submitted that the Applicant-Accused No.3 was not last seen together with the deceased, as Kishor (Accused No.1), Shoobham (Accused No.2) and Suraj (Accused No.4) were last seen together on 28th January 2023 in the night in said Restaurant. He submitted that except one phone call, which was made by Accused No.1 to the Applicant at about 00.48.14 hrs. in the midnight, there is no other incriminating material. Another circumstance is the recovery of blood-stained clothes and a cellular phone at the instance of the Applicant. However, the same is from the open space near his poultry farm. He submitted that the recovery of the entire amount of Rs.27,800/- is at the instance

of Accused No.1. Therefore, he submitted that the Applicant be enlarged on bail. He submitted that there is no other antecedent.

5. Ms. Shinde, learned APP on the other hand, strongly opposed the Bail Application. She submitted that the location of the said cellphone of deceased was at the poultry farm of the Applicant. She further submitted that at the relevant time, the location of Accused Nos.1 and 2 was the same. She submitted that Accused No.1 contacted Accused No.3 on mobile phone in the midnight at about 00:48:14 hrs. She further submitted that there is a recovery of blood-stained clothes and cellular phone of the deceased at the instance of the present Applicant.

6. As far as the recovery is concerned, it is the contention of learned Counsel appearing for the Applicant that the recovery is from the open space.

7. Perusal of the record shows that the incident in question took place on the intervening night of 28th January 2023 and 29th January 2023. The Applicant was apprehended on 29th January 2023 and the Charge-sheet has been filed on 27th April 2023. There are 27 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the Charge is also not framed yet. The statement of witness-Pratiksingh Surendra Pardeshi shows that the Applicant was not last seen together with the deceased. The alleged recovery is from the open

space. The C.D.R. Report shows that the Accused No.1 called the present Applicant i.e. Accused No.3 at about 00:48:14 hrs.. The motive for the crime is that Rs.30,000/- were stolen from the deceased. An amount of Rs.27,800/- has been recovered at the instance of Accused No.1. The trial is likely to take a considerably long time.

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

ORDER

- (a) The Applicant-Ganuji *alias* Aba Ramesh Khandale be released on bail in connection with C.R. No.64 of 2023 registered with the Daund Police Station, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent local 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 Daund Police Station, District-Pune on every Sunday 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 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.
- (h) The Bail Application is disposed of accordingly.
- (i) 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.

[MADHAV J. JAMDAR, J.]