

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

BAIL APPLICATION NO.2840 OF 2023

Kiran Pandurang Bhopi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Niranjan Mundargi a/w Mr. Veerdhawal Deshmukh & Mr. Akshay Kumar Mishra i/b Hulyalkar & Associates, for the Applicant.

Ms. Veera Shinde, APP, for the Respondent-State.

Mr. Vikas P. Salvi, Head Constable (HC/634), Panvel Taluka Police Station-Navi Mumbai, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 28 MARCH 2024

P. C.

1. Heard Mr. Mundargi, learned Counsel for the Applicant and Ms. Shinde, 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.	2 of 2023
2	Date of registration of F.I.R.	01/01/2023
3	Name of Police Station	Panvel Taluka, District-Raigad
4	Section/s invoked	302 of the <i>I.P.C., 1860</i>
5	Date of incident	31/12/2022 - 01/01/2023
6	Date of arrest	29/05/2023
7	Date of filing Charge-sheet	07/08/2023

3. As per the prosecution case, the Applicant has committed the

offence under Section 302 of the *Indian Penal Code, 1860* by committing murder of the deceased as the deceased had objected to the romantic relationship between the Applicant and her daughter-in-law.

4. Mr. Mundargi, learned Counsel for the Applicant submitted that the case is of circumstantial evidence. Except for some material on record to show that the Applicant was in a relationship outside of marriage with the daughter-in-law of the deceased, there are no other circumstances to connect the Applicant with the offence in question. He submitted that the Applicant is incarcerated since about 10 months. He submitted that investigation has been completed and Charge-sheet has been filed. He submitted that the Applicant does not have any antecedents. He submitted that the incident took place on 31st December 2022. The F.I.R. was registered on 1st January 2023 and till arrest of the Applicant i.e. until 29th May 2023 there is nothing to show that the Applicant was involved in the offence in question. He submitted that the Applicant came to be arrested 5 months after the incident only on mere suspicion and that there is no recovery at the instance of the Applicant. There is nothing to connect the Applicant to the offence. He relied on the decision of the Supreme Court in *Raghunatha v. State of Karnataka*¹ which reiterated the settled law that suspicion, however strong it may be, cannot substitute proof beyond reasonable doubt. An Accused cannot be convicted on the ground of suspicion, no matter how

1 2024 SCC OnLine SC 365

strong it is. An Accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.

5. On the other hand, Ms. Shinde, learned APP strongly opposed the Bali Application. She submitted that although the case is of circumstantial evidence, the circumstances are very strong. She submitted that during the period from 1st July 2022 till 1st October 2022 there were about 332 phone calls made between the daughter-in-law of the deceased and the present Applicant. She submitted that the mortal remains of the deceased were found near the house of the Applicant. She submitted that there is a strong motive and therefore the Bail Application be rejected.

6. Perusal of the record shows that the incident in question took place on 31st December 2022. F.I.R. was lodged on 1st January 2023. Applicant was arrested on 29th May 2023. It is an admitted position that investigation has been completed and the Charge-sheet was filed on 7th August 2023. As per the Charge-sheet, there are about 22 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the charge is also not framed yet. Accordingly, the trial is likely to take a considerably long time.

7. The case is of circumstantial evidence. *Prima facie* there is substance in the contention of learned Counsel for the Applicant that except the circumstance that the Applicant was in a relationship outside

of marriage with the daughter-in-law of the deceased and the deceased was objecting to the same, there are no other circumstances connecting the Applicant to the offence in question. There are no other antecedents against the Applicant. Accordingly, the Applicant is entitled to be enlarged on bail.

8. Mr. Mundargi, learned Counsel for the Applicant states that as most of the witnesses are from Taluka-Panvel, District-Raigad, the Applicant will therefore not reside within District-Raigad and that the Applicant will reside at Room No.72, Agri Samaj Rahivashi Sangh, Shiv Shrushti, Kurla (East), Mumbai-400 024.

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 - Kiran Pandurang Bhopi be released on bail in connection with C.R. No.2 of 2023 registered with the Panvel Taluka Police Station, District-Raigad on his furnishing PR. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Raigad district after being released on bail, 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 Nehru Nagar Police Station, District-Mumbai City once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Nehru Nagar Police Station, District-Mumbai City to communicate details thereof to the Investigating Officer.
- (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 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.]