

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

CRIMINAL BAIL APPLICATION NO.3083 OF 2023

Datta Vasant Bhondve

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Narayan Rokade a/w Mr. Udaysinh Deshmukh and Ms. Pratibha Pawar, Advocates for the Applicant.
Ms. S.S. Kaushik, APP for Respondent - State.
P.S.I. - R. S. Sarade, Hinjewadi Police Station, Pimpri-Chinchwad, Pune, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 26th February 2024

P. C.

1. Heard Mr. Rokade, learned Counsel appearing for the Applicant and Ms. Kaushik, 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.	288 of 2018
2.	Date of registration of F.I.R.	9th June 2018
3.	Name of Police Station	Hinjewadi, Pune, District-Pune
4.	Section/s invoked	302, 397 r/w 34 of <i>Indian Penal Code, 1860</i> .
5.	Date of incident	9th June 2018

6.	Date of arrest	10th June 2018
7.	Date of filing Charge-sheet	4th September 2018

3. As per the prosecution, the deceased was the wife of the Applicant. The Applicant was in a relationship outside of marriage with Accused No.4. They both wanted to get married to each other. The Applicant and the deceased had a son aged 8 months who was also killed in the said incident.

4. As per the prosecution case, the Applicant and the Accused No.4 - Sonali Balasaheb Javale hatched a conspiracy to commit the murder of deceased wife - Ashiwini and deceased son - Anuj of the Applicant. The Applicant and Accused No.4 wanted to marry each other. The other Accused Nos.2, 3 and 5 are friends of the Applicant.

5. The incident in question took place on 9th June 2018. The initial complaint was lodged by the Applicant stating that when the Applicant and his family i.e. his wife - Ashwini and his son - Anuj were travelling in a car, some strangers attacked them with an intention to rob their cell phones, cash and gold-ornaments and in that assault, wife-Ashwini and son-Anuj of the Applicant were assaulted and they succumbed to the resultant injuries. However, after investigation it was found that the Applicant was in a relationship outside of marriage with the Accused No.2 and

as they both wanted to marry each other, wife-Ashwini and son-Anuj were killed and Accused Nos.2, 3 and 5 helped the Applicant, who is Accused No.1 and Accused No.4 i.e. Ashwini.

6. Mr. Rokade, learned Counsel appearing for the Applicant submitted that there are total 5 Accused and except for the Applicant, all the other Accused have been enlarged on bail either by this Court or by the learned Sessions Court. He submitted that the friend of the Applicant, who have participated in the crime i.e. Accused No.3 has been granted bail by Order dated 19th December 2022 passed by a learned Single Judge (Coram: Prakash D. Naik, J.) in Criminal Bail Application No. 296 of 2022. Accused No.5 - Savan N. Jadhav has been granted bail by a learned Single Judge (Coram: N.R. Borkar, J.) by Order dated 2nd March 2023 passed in Bail Application No.2887 of 2021. He submitted that Accused No.2 - Prashant Jagan Bhor has been granted bail by Order dated 8th August 2023 passed below Exhibit 90 by learned Additional Sessions Judge, Pune in Sessions Case No.707 of 2018. Accused No.4 - Sonali Balasaheb Javale has also been granted bail by a learned Single Judge (Coram: Prakash D. Naik, J.) by Order dated 23rd July 2021 passed in Bail Application No. 1767 of 2021. He submitted that his role is the same as that of Accused No.4 - Sonali and therefore sought parity.

7. Mr. Rokade, learned Counsel further submitted that the Applicant has been arrested on 10th June 2018, Charge has been framed on 27th January 2021 and till date, not a single witness has been examined. He submitted that as per the Charge-sheet, 48 witnesses are proposed to be examined by the prosecution. He therefore submitted that the Applicant is entitled to bail due to the delay in conducting the trial.

8. On the other hand, learned APP strongly opposed the Application. She submitted that the Applicant wanted to get married with Accused No.4 - Sonali and therefore, he not only killed his wife - Ashwini but also killed his son - Anuj aged 8 months and therefore the Applicant is not entitled to be released on bail.

9. Perusal of the record shows that there are total 5 Accused. All the Accused except the present Applicant have been released on bail. As per the prosecution case, the present Applicant and Accused No.4 were in a relationship outside of marriage and they wanted to get married to each other and therefore motive to commit the offence is the same.

10. Ms. Kaushik, learned APP submitted that the role of the Accused No.4 - Sonali to whom bail has been granted and the role of the present Applicant is totally different and that he has played a significant role in the commission of the offence in question.

She pointed out that a bottle containing chloroform is recovered at the instance of the present Applicant and there are certain other circumstances including C.D.R. and statement of witness under Section 164 of *the Code of Criminal Procedure, 1973* which show that the role of the Applicant is that of the main conspirator. Learned APP submitted that this is not a case for granting bail and that the trial be expedited.

11. Learned APP is correct in contending that the role of the present Applicant in the offence in question is far more significant compared to the role of Accused No.4, however, it is to be noted that the present Applicant is under incarceration since 10th June 2018. The Charge has been framed on 27th January 2021 and till date there is no progress in the trial. As per the Charge-sheet, 48 witnesses are proposed to be examined by the prosecution. The trial is likely to take a considerably long time.

12. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail.

¹ Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

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

ORDER

- (a) The Applicant - Datta Vasant Bhondve be released on bail in connection with C.R. No.**288** of 2018 registered with the Hinjewadi Police Station, Pune, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two 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 Hinjewadi Police Station, Pune, District - Pune on Sunday of every week 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.

17. The Bail Application is disposed of accordingly.

18. 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.]

Note: Corrected as per Speaking to Minutes of the Order dt. 29th February 2024.

BHALCHANDRA
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DUSANE

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