



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

BAIL APPLICATION NO.3786/2023

AAKASH BALASAHEB SHIRSATH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Kunal Pednekar a/w Adv. Divesh Mehani a/w Adv. Savvy
Kolhekar i/b Adv. Aniket Vagal for the Applicant.
Mr. S.A. Karmakar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 14, 2024

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302, 120-B and 201 of the Indian Penal Code registered on 27/02/2020 vide C.R. No.66 of 2020 with Malegaon Police Station, Nashik.
- 3.** On 30/08/2023 in Bail Application No. 1309 of 2023 filed by the co-accused Aakash Subhash Jagtap, this Court enlarged him on bail. The relevant portion of the order reads thus:

"2. This is an application for bail in respect of the offence punishable under Sections 302, 120(B) and 201 of the Indian Penal Code registered vide C.R. No.66 of 2020 with Malegaon Police Station. The First Information Report is dated 27/02/2020. The applicant was arrested on 03/03/2020.

3. The duration of the alleged incident is somewhere in the night between 25/02/2020 and 26/02/2020. There are in all 3 accused. The applicant is accused No.1. He is the grandson of the deceased. The motive alleged is that the applicant was in need of some money and he was aware that the deceased had the money in her house which she obtained in respect of the property she sold. It is alleged that the grandmother/victim died by strangulation. The case is entirely based on circumstantial evidence.

4. Learned APP while opposing the application states that the motorcycle is recovered at the instance of the applicant. Apart from that, after the incident, a statement of the hotel manager, where the applicant had stayed, is recorded. The mobile phone of the victim was recovered from the co-accused. The investigation is complete and the charge-sheet is filed. There is nothing on record to show that the applicant has any criminal antecedents. The applicant does not appear to be a flight risk. As the applicant has been in custody for more than 3 years and 5 months with no possibility of trial concluding any time soon, in the facts and circumstances of the present case, the applicant can be enlarged on bail."

4. Learned APP opposed the application contending that the mobile phone belonging to the deceased was sold by the present applicant. The case is based on circumstantial evidence and according to the learned APP, this is a strong circumstance against the present applicant.

5. The applicant was arrested on 03/03/2020 and is now in

custody almost for 4 years. The charge was framed on 10/06/2022 and thereafter not a single witness has been examined. The trial is not likely to conclude any time soon. Considering that the co-accused who had motive has been enlarged on bail, I am inclined to enlarge the present applicant on bail in the facts and circumstances of the present case. Hence, the following order:-

ORDER

- (a) The application is allowed.
- (b) The applicant- Aakash Balasaheb Shirsath in connection with C.R. No. 66 of 2020 registered with Malegaon Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Malegaon police station once in a month, first Monday of every month, between 11.00 a.m. and 1.00 p.m.
- (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 him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)