

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3857 OF 2023

Amrut Tipanna Madkal @ Wadar

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Veerdhawal Deshmukh a/w. Mr. Akkshay Mishra i/b. Mr. S.P. Hulyalkar, for the Applicant.

Mrs. G.P. Mulekar, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 29, 2024

P.C.:

1. This is an application for bail in Session Case No. 33 of 2023 arising out of C.R. No.103 of 2016 registered with Turbhe MIDC police station for the offences punishable under sections 302 and 504 of Indian Penal Code, 1860.

2. Laxmi Minijage (the deceased) was the cousin of the first informant. They were residing at a slum near Mhaveer Quarry, Turbhe MIDC. Husband of Laxmi had passed away prior to six year. She was residing along with her daughter, then 10 years of age. She was in a live in relationship with the applicant. The applicant allegedly suspected the fidelity of the deceased and often raked up quarrel with her.

3. On 3rd July, 2016 at about 10.30 pm there was a noise of quarrel between the applicant and the deceased. The daughter of the deceased came to the first informant and informed her that the applicant had assaulted the deceased by means of knife. First informant rushed to the house of the deceased. She was in a pool of blood. The applicant also had injury on his throat. The applicant came to be arrested on 6th July, 2016.

4. During the course of investigation, the statement of daughter of the deceased came to be recorded. She narrated the manner in which the applicant assaulted the deceased by means of knife, post quarrel.

5. Mr. Deshmukh, the learned counsel for the applicant submitted that the applicant is in custody since more than seven and half years. The Session Case has now been transferred to the Court of Session at Belapur. Charge has been framed. However, not a single witness has yet been examined. Having regard to the long period of incarceration, the applicant deserves to be released on bail.

6. The learned APP, on instructions, submitted that though

charge has been framed yet recording of evidence has yet not commenced. The learned APP further submitted that investigating officer could not locate the daughter of the deceased who is a prime witness.

7. Undoubtedly, there is prima facie material which incriminates the applicant. However, the fact remains that the applicant is in custody since seven and half years. Recording of evidence has yet not commenced. The daughter of the deceased is the prime witness. It is unlikely that the trial in the circumstances of the case, can be concluded within a reasonable period. Such a long period of incarceration as an under trial prisoner without the prospect of expeditious completion of the trial, in the facts of the case, warrants the release of the applicant, on bail.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant be released on bail in C.R. No.103 of 2016 registered with Turbhe MIDC police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.
- 3] The applicant shall mark his presence at Turbhe MIDC police station on the first Monday of every month in between 11 am to 1

pm, till conclusion of the trial.

4] The applicant shall not enter the limits of Turbhe MIDC police station till the conclusion of the trial, except for the purpose of marking presence at police station.

5] The applicant shall not contact the daughter of the deceased and any of the relatives of the deceased and shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

6] 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.

7] The applicant shall regularly attend the proceedings before the jurisdictional Court.

8] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)