

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

CRIMINAL BAIL APPLICATION NO.3998 OF 2023

Anil Parshuram Dere	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Rishi Bhuta, Advocate a/w. Saumitra Salunke i/b. Pradeep Yadav for the Applicant.

Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 09th JANUARY, 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R. No.100/2018 dated 5.7.2018 registered at Kamothe police station, Navi Mumbai under Sections 302 120-B, 201 read with 34 of IPC; under Sections 3, 25, 4, 27 of the Arms Act and under Sections 37(1) and 135 of the Maharashtra Police Act.

2. Heard Mr. Rishi Bhuta, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State.

3. This is the third time the Applicant is approaching this Court for his release on bail. The Applicant was arrested on 6.7.2018 and since then he is in custody. On the first occasion, the Applicant had preferred Criminal Bail Application No.8/2020. It was rejected vide a reasoned order dated 1.2.2021. After that, he preferred another application vide Criminal Bail Application No.3009/2022. At that time, the application was not pressed. However, this Court had specifically requested the trial Court to take up the trial at the earliest and conclude it as far as possible within nine months from 21.2.2023.

4. The unfortunate part is that, till today, even the first witness is not examined. The charge was framed on 11.7.2023. Even after that no efforts were made by the prosecuting agency and the investigating agency to procure presence of any of the witnesses. Therefore, I am considering

the Applicant's prayer for bail. The beginning and conclusion of the trial is not in sight. The prosecuting agency is not serious about conducting the trial expeditiously. The Applicant-accused cannot be kept in jail as an under-trial prisoner indefinitely. This is the main ground on which I am entertaining the present Application.

5. As far as merit of the matter is concerned, it was discussed in depth in the order dated 1.2.2021 passed in Criminal Bail Application No.8/2020. The offence is regarding murder of one Shantaram. The Applicant had intimate relationship with one Vrushali. The deceased Shantaram got married with Vrushali and, therefore, the Applicant was holding grudge against Shantaram. He hired assailants who committed murder of Shantaram by assaulting him with sharp weapons. The incident was witnessed by Vrushali's brother. But since he was not knowing the assailants he lodged the FIR against the unknown persons. The investigation was carried out and the charge-sheet was filed.

6. As mentioned in the earlier order dated 1.2.2021, the nature of circumstantial evidence against the Applicant is motive and extra-judicial confession. The extra-judicial confession was made to the witnesses Sandip Dere, Dattatray Dere and Dashrath Patil. Said witness Dashrath had accepted money from the Applicant to commit murder of the deceased. However, at that time he had not taken any steps and, therefore, the Applicant turned to the other accused who committed the murder. Thus, as discussed in the order dated 1.2.2021, there is sufficient incriminating material against the present Applicant.

7. However, inspite of this material there is no progress in the trial and the Applicant is in custody since 6.7.2018. More than five and half years have passed. As mentioned earlier, the beginning and conclusion of the trial is not possible in the near future. The Applicant cannot be kept behind the bars as an under-trial prisoner for an indefinite period. Therefore, on that ground alone, the Applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) In connection with C.R. No.100/2018 registered at Kamothe police station, Navi Mumbai, the Applicant is directed to be released on bail on his furnishing a PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Application is disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
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(SARANG V. KOTWAL, J.)

Deshmane (PS)