

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3 OF 2024**

Kacharu Govind Patil	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Ms. Shweta Rathod a/w. Ms. Tahira Siddique, i/b. Elixir Legal Services for applicant.

Ms. Megha S. Bajoria, APP for respondent-State.

Mr. P. B. Todase, PSI, Bhiwandi Police Station.

**CORAM : MANISH PITALE, J.
DATE : 10th JULY, 2024**

P.C. :

1. Heard learned counsel for the applicant and the learned APP for respondent-State.

2. The applicant is seeking bail as he was arrested on 07.03.2022 in connection with FIR No. 0105 registered on the same day, for offences under Sections 302, 307, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860, in respect of an incident that took place on 06.03.2022. The chargesheet was filed on 10.05.2022. As on today, the charges are yet to be framed.

3. The learned counsel for the applicant submitted that even if the material now on record alongwith the chargesheet, is to be taken into consideration, there are serious doubts about the prosecution case. In

support of the said submission, the learned counsel for the applicant relied upon statements of the witness Subhash Gopinath Patil and that of Usha Kashinath Patil, to contend that the description of the incident given by the informant appears to be inconsistent. It is submitted that even the presence of the applicant is in doubt and considering the fact that the time of death is recorded as 06:45 p.m. in one of the documents, as opposed to 06:15 p.m. in other documents, does raise a serious doubt about the prosecution case.

4. It is submitted that the aforesaid material indicates that the victim may have died due to medical negligence, particularly because the nature of injuries as described in the inquest panchanama dated 06.03.2022, shows only minor abrasions on the body of the victim.

5. On the other hand, the learned APP seriously disputed the contentions raised on behalf of the applicant. It is submitted that in the present case, the informant was present at the time of the incident. He is an injured eye-witness and his statement is consistent with the other material that has come on record during the course of investigation. Attention of this Court is specifically invited to the postmortem report, which records as many as ten injuries on the body of the victim. It is submitted that a brutal assault was launched by the applicant and the co-accused person in the backdrop of a quarrel that occurred in the agricultural field. It is submitted that the incident took place in broad daylight and the parties are known to each other. It was further submitted that the accused having been specifically identified with overt acts described in detail by the informant, a strong *prima facie* case is made out against the applicant. On this basis, it is submitted that the present application deserves to be rejected.

6. At this stage, the learned counsel for the applicant submitted that since the applicant is aged about 75 years old and he has already remained behind bars for two years and four months, this Court may consider granting him bail, particularly because the prosecution intends to examine as many as 29 witnesses and the trial would take a long time for completion.

7. In response, the learned APP submitted that all the witnesses may not be examined and this Court may issue directions for time-bound completion of the trial.

8. On the merits of the matter, this Court is not convinced that the contentions raised on behalf of the applicant, can be accepted.

9. The informant is an injured eye-witness and in the statement leading to registration of FIR, he has described in sufficient detail, not only the presence of the applicant, but also overt acts committed by him. The assault in the present case on both the victims i.e. the deceased and the informant, continued for a considerable period of time and it appears to have taken place due to a quarrel in the agricultural field. The alleged inconsistencies in the statements of the witnesses Subhash Gopinath Patil and Usha Kashinath Patil, as compared to the description of the incident by the informant, cannot be said to be of much consequence. The statement of Subhash Gopinath Patil, in fact, does indicate the presence of the applicant at the spot of the incident. The difference in the timing of the death of the victim is also a matter that can be gone into detail at the time of trial. But, at this stage, the same cannot inure to the benefit of the applicant.

10. Considering the injuries suffered by the victim, indicating the ferocity of the assault, this Court is not inclined to accept the contentions raised on behalf of the applicant on the merits of the matter.

11. It is not seriously disputed that the applicant is of 75 years old and record shows that he has already undergone imprisonment for about two years and four months. Chargesheet was filed as far back as on 10.05.2022. Since this Court is not convinced with the case of the applicant for grant of bail on merits, appropriate directions can be issued for completion of the trial expeditiously by reserving liberty for the applicant, in the event the trial is not completed expeditiously.

12. In view of the above, the application is dismissed.

13. However, the trial court is directed to frame charges within four weeks from today. The trial shall be completed expeditiously and in any case within nine months from today.

14. In the event the trial is not completed within the stipulated period of time and the delay is not attributable to the applicant, liberty is reserved for the applicant to renew his prayer for bail.

(MANISH PITALE, J)

PRIYA
KAMBLI Digitally signed
by Priya
Kambli
Date: 07.11.
19:10:51 +05:30 **Priya Kambli**