

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

**BAIL APPLICATION NO. 20 OF 2024
WITH
INTERIM APPLICATION NO. 16 OF 2024
IN
BAIL APPLICATION NO. 20 OF 2024**

Abhishek Shashank Maity ... Applicant
Versus
The State of Maharashtra ... Respondent

Ms. Anandini M. Fernandes, Legal Aid Advocate, for Applicant.
Mr. Bapu V. Holambe-Patil, APP for Respondent-State.
Mr. Bhushan K. Deore, PSI, Dindoshi Police Station.

**CORAM: MANISH PITALE, J.
DATE : 13th AUGUST 2024**

P.C. :

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

2. In the present case, the application is moved from jail and hence, learned counsel appearing for the applicant was appointed by the High Court Legal Services Committee.

3. The learned counsel appearing for the applicant has made submissions on the basis of relevant portion of the charge-sheet that she could lay her hands on.

4. It is submitted that the FIR was registered on 20th September

2014 for offences under Sections 302 and 326 of the Indian Penal Code, 1860 (IPC) bearing FIR No. 443 of 2014, registered at Dindoshi Police Station, Mumbai.

5. It is submitted that the applicant was arrested on the date of registration of the FIR. Consequently, he has remained behind bars for almost ten years.

6. It is submitted that the status of the proceeding before the trial Court indicates that the first witness was partly examined in the year 2022 and till date, the evidence of the first witness is not completed. The prosecution intends to examine fifteen witnesses and therefore, the trial Court would take its own time. It is submitted that even if the case of the prosecution is to be taken into consideration, it appears that the incident in question was in the backdrop of frustration of the applicant for not being able to go back to his village and remaining in employment with the deceased. It was not as if the murder of the victim was planned in cold blood by the applicant and considering that fact that at the time of the incident, the applicant was about 19 to 20 years of age, this Court may consider enlarging the applicant on bail on appropriate conditions.

7. The learned APP submits that the first witness has been partly examined and that the trial would be expedited. It is submitted that the applicant does not have any criminal antecedents.

8. This Court has considered the material made available by the learned counsel appearing for the applicant. The incident is of 20th September 2014, the day on which the FIR was registered and the applicant was arrested. The death of the victim occurred because of injuries suffered allegedly at the hands of the applicant by a pipe used for the said purpose. The material on record indicates that according to the prosecution, the incident occurred and the applicant tried to flee, but he was apprehended.

9. The background of the incident appears to be that the applicant had come from the village to the deceased with whom a friend of the applicant was already working. The business of the deceased was that of the artificial jewellery. It appears that the friend of the applicant took a loan of Rs.10,000/- from the deceased with a promise to return the same and he returned to the village. The said friend of the applicant did not come back and when the applicant desired to leave the employment and go back to the village, there were disputes and quarrels between the applicant and the deceased. It is in this background that it was alleged that the applicant assaulted the deceased by means of a pipe, which eventually led to death of the victim/deceased.

10. Although, the application filed by the applicant for being treated as a juvenile was rejected, even if the material on record is to be appreciated, it appears that on the date of the incident, the applicant about 19 to 20 years old. There is nothing to show that the applicant has any criminal antecedents and it appears that in

the aforementioned background, the incident occurred as a sudden quarrel or fight between the applicant and the deceased.

11. Apart from this, it is significant that the applicant has remained behind bars for about ten years. The status of the proceeding before the trial Court is that the first witness was examined in the year 2022. His evidence remained incomplete and till date, the evidence of the first witness is to be completed. There are 15 witnesses to be examined by the prosecution and considering the pace at which the proceedings have taken place before the trial Court, it cannot be said that certainty as to when the trial would be completed.

12. The Supreme Court in the case of *Union of India v/s. K. A. Najeeb*, AIR 2021 SC 712, has held that Constitutional Courts can exercise power to enlarge accused under-trials on bail in cases that have undergone substantial period of incarceration and when the trial is not likely to be completed within a reasonable period of time. The said judgment of the Supreme Court has been followed in various cases by the Supreme court and this Court. The said view has been adopted even in cases where stringent tests have been statutorily prescribed for granting bail, including enactments like Prevention of Money Laundering Act, 2002, Narcotic Drugs and Psychotropic Substances Act, 1985 and Unlawful Activities (Prevention) Act, 1967, etc.

13. Considering the position of law and the fact that in the

present case that the applicant has already suffered incarceration for almost ten years, as also the fact that the trial will not be completed within reasonable period of time, this Court is inclined to enlarge the applicant on bail.

14. Accordingly, the application is allowed in the following terms:

- (a) The applicant shall be released on bail in connection with FIR No. 443 of 2014 dated 20th September 2014 registered at Dindhoshi Police Station, Mumbai, on furnishing P.R. Bond of ₹15,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (b) The applicant shall cooperate with the proceedings before the trial Court and he shall attend the trial Court on each and every date, unless specifically exempted by the trial Court, for the reasons to be recorded in writing.
- (c) The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.
- (d) The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

15. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

16. The application is disposed of.

17. In view of the bail application being allowed, the Interim Application stands disposed of.

MANISH PITALE, J.