

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 57 OF 2024

Abhya @ Swapnil Santosh Bhosale

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Priyal Sarda, Advocate for Applicant.

Mr. P. H. Gaikwad, APP for State-Respondent.

CORAM:- ANIL S. KILOR, J.

DATED:- 27th JUNE, 2024

PC:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.185 of 2020, registered with Chinchwad Police Station, Dist.-Pune for the offences punishable under Sections 302, 504, 506, 141, 143, 146, 147, 148 and 149 of Indian Penal Code, 1860, Section 4/25 of Arms Act, 1959 and Section 37 (1) read with Section 135 of Maharashtra Police Act, 1951.

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Order corrected as per order dated 2nd July, 2024.

3) The learned Counsel for the applicant submits that the role attributed to the applicant is that he assaulted the deceased by bamboo stick. It is pointed out the cause of the death is head injury of which the author is the accused No.1. It is pointed out that the accused No. 1 inflicted a blow on the head of the deceased by sword. He further points out that the deceased died after three days after the incident on his hospitalization. It is argued that there are seven total accused persons out of them three are juveniles and one has been granted bail. He further submitted that as the applicant is in jail from last four years, considering the period of incarceration, he be released on bail.

4) On the other hand, the learned APP strongly opposed the application and submits that there are two eyewitnesses who have specifically attributed the role played by the applicant with the alleged offence. It is submitted that the co-accused–Kunal has withdrawn his Bail Application when he found that this Court was not inclined to grant bail. The learned APP further points out the number of injuries caused during the assault with the deceased. He further submits that as the offence is very serious, this Court may not grant bail to the applicant.

5) Having considered the rival submissions and the material collected by the I.O. during the investigation, it is evident that the applicant is in jail from last four years. The recovery against the applicant is a stick. The cause of death is head injury. If the allegations are considered, it is evident that the accused No.1 inflicted a blow by sword on the head of the deceased and because of which he died. Except the head injury, all other injuries are mostly abrasions.

6) In the above referred facts and circumstances, if the progress of trial is considered, it would be revealed that till date charge is not framed and total 21 witnesses there to be examined. In the circumstances, as there is no possibility that in near future, the trial will be concluded, I am of the opinion that considering the nature of evidence and the period of incarceration, the applicant is entitled to be released on bail. Accordingly, I pass the following order:

ORDER

- i) The Criminal Bail Application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No.185 of 2020, registered with Chinchwad Police Station, Dist.-Pune for the offences punishable under Sections 302, 504, 506, 141, 143, 146, 147, 148 and 149 of Indian Penal Code, 1860, Section 4/25 of Arms Act, 1959 and Section 37(1) read with Section 135 of Maharashtra Police Act, 1951, on furnishing P.R.Bond of Rupees Twenty-Five Thousand with solvent surety in the like amount;
- iii) The applicant shall not enter into the territorial jurisdiction of Pune City Police Station, till conclusion of trial except for attending trial in Sessions Court;

- iv) The applicant shall provide his address and name of the nearby police station to the Investigating Officer, which he shall attend the said Police Station on 1st and 16th day of each month between 12:00 noon and 2:00 p.m., till the conclusion of the trial except on the date of trial;
- v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- vi) Liberty is granted to the State to apply for cancellation of bail in case of any breach of condition if the applicant commenced similar offence;
- vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

The Criminal Bail Application is **disposed of** accordingly.

(ANIL S. KILOR, J)