

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

CRIMINAL BAIL APPLICATION NO. 488 OF 2024

Shantaram Namdev Mali

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket Vagal with Kunal N. Pednekar, for the Applicant.

Mrs. Veera Shinde, APP for State-Respondent.

Mr. Sandeep Shinde, P.C., Present.

CORAM:- ANIL S. KILOR, J.

DATED:- 19th AUGUST, 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.66 of 2022 registered with Lasalgaon Police Station, for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

3) The whole case is based on circumstantial evidence, namely the last seen. Having gone through the charge-sheet and the relevant material collected by the Investigating Officer during the investigation, admittedly though there are statements of eyewitness stating that two persons were seen together which according to the prosecution are accused Nos. 1 and 2, however, no T.I. Parade was conducted.

4) The witnesses have given description of the accused and not named the accused. In the circumstances, the recovery of a mobile phone alleged to be of the deceased cannot be the ground to deny bail as there is no complaint to the effect that the mobile of the deceased was stolen.

5) Furthermore, if the CCTV footage is taken into account, the accused No. 1 was seen with the deceased on the same motorcycle. Whereas, the applicant was seen following the accused No. 1 and the deceased on a different motorcycle.

6) Thus, considering the above referred facts, prima facie I am of the opinion that prima facie there is no sufficient material to show the involvement of the applicant in the alleged offence. In the circumstances, considering the period of incarceration of the applicant, which is more than two years, and the fact that the charge-sheet has been filed, I am of the opinion that the applicant is entitled for grant of bail. Hence, I pass the following order.

ORDER

- i. The Bail Application is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No.66 of 2022 registered with Lasalgaon Police Station, for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860, on furnishing PR. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;

iii The applicant shall not enter into the territorial jurisdiction of Lasalgaon Police Station, till the conclusion of the trial except on the date of trial;

iv The applicant shall provide his address and name of the nearby police station to the I.O, which he shall attend the said Police Station on 1st and 16th day of every month between 10.00 am to 12.00 noon, 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 cancellation of bail if the applicant commits similar offence.;

vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

viii. Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]