

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

**CRIMINAL BAIL APPLICATION NO. 495 OF 2024**

Nikhil Ravindra Patole

...Applicant

**Vs.**

The State of Maharashtra

...Respondent

Mr. Karansingh Rajput with Fauzan Shaikh, Advocate for the applicant.

Mr. P. P. Deokar, APP for State-Respondent.

Mr. Anita tonde, API, Present.

**CORAM:- ANIL S. KILOR, J.**

**DATED:- 28<sup>th</sup> 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. 266 of 2023 registered with Khadak Police Station, Pune for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860.

3) The whole case is based on circumstantial evidence. The learned APP while opposing the application, is heavily harping upon the statement of one Sadik @ Gharya Shaikh. The body of the deceased was

found on 29th July, 2023 and this witness came forward on 9 August, 2023 narrating the complete incident in detail. The explanation, which he has put forward for not stating the incident to the police immediately, is that he got scared after the incident and therefore he did not disclose the said fact to anyone, the said explanation prima facie is not probale.

4) Thus, considering the delay in giving the statement to the police, I am of the opinion that it is not safe to solely rely upon this statement. The other evidence is CCTV footage. After considering the transcription of the CCTV footage, it only depicts that at the relevant time, the applicant was in nearby area.

5) The learned Counsel for the applicant submits that he is a resident of the same area and it is his regular practice to walk around in the said area. The learned Counsel for the applicant states that the said fact can be verified from the CCTV footage of the earlier dates.

6) The learned APP states that the clothes, which were recovered from the applicant were sent for CA report. As per the story narrated by Sadik, it is evident that the deceased allegedly committed oral sex with the applicant but no evidence to that effect namely semen was found on the spot.

7) Thus, prima facie, it creates doubt about the story narrated by Sadik. In the above-referenced backdrop, considering the fact that the applicant is in jail from last more than one year and the charge-sheet has been filed and furthermore, there are no criminal antecedents against the applicant, 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. 266 of 2023 registered with Khadak Police Station, Pune for the offences punishable under Sections 302 and 201 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 attend the said Police Station on 1<sup>st</sup> day of every month between 12.00 noon to 2.00 p.m., till the conclusion of the trial except on the date of trial;
- iv. 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;
- v. Liberty is granted to the State to apply cancellation of bail if the applicant commits similar offence.;
- vi. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.
- vii. Application stands disposed of, accordingly.

**[ANIL S. KILOR, J.]**