

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

BAIL APPLICATION NO. 690 OF 2024

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2024.06.27
13:02:49 +0530

Nilesh Maruti Patil

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Pradip Gharat, for the Applicant.

Ms. Mahalaxmi Ganapathy, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED: 24th JUNE, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant, who is arraigned in CR No.359 of 2022, registered with Koparkhairane Police Station, Navi Mumbai, for the offences punishable under Sections 304 and 166 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code"), has preferred this application to enlarge him on bail.

3. The applicant is a police constable. The applicant and co-accused Prakash Patil, Police Head Constable and Ravindra Hamare, Police Constable, were posted at Koparkhairane Police Station. The applicant has been arraigned for having caused custodial death of Dinesh

Chavan, a suspect in a crime, at Koparkhairane Police Station, alongwith co-accused Prakash Patil and Ravindra Hamare.

4. Manisha Pradhan, Deputy Superintendent of Police, CID, Maharashtra State, after conducting an enquiry into the custodial death of Dinesh Chavan, the deceased, lodged a report with the allegations that the enquiry into the death, traversing the statements of the witnesses, CCTV footage, medical opinion and CA reports, revealed that on 13th August, 2021 between 4.00 a.m. to 6.00 a.m. after deceased was brought at Koparkhairane Police Station, the applicant and co-accused Prakash Patil and Ravindra Hamare caused death of the deceased Dinesh Chavan by assaulting him by means of fist, kick blows and sticks. The applicant came to be arrested on 11th October, 2023.

5. Co-accused Prakash Patil and Ravindra Hamare have been reportedly released on default bail.

6. Mr. Gharat, the learned Counsel for the applicant, submitted that co-accused have been released on bail. The role attributed to the applicant is relatively minor vis-a-vis Prakash Patil and Ravindra Hamare, who allegedly repetitively assaulted the deceased. An endeavour was also

made by Mr. Gharat to draw home the point that the deceased had suffered death as he had fallen from a height. Since investigation is complete and charge-sheet has been lodged, further detention of the applicant is not warranted. Taking the Court through the opinion of the Forensic Expert, it was urged that there can be multiple explanations for the death of the deceased including the fall from a height under the influence of liquor.

7. In contrast to this, Ms. Ganapathy, the learned APP, stoutly resisted the prayer for bail. It was submitted that the applicant has been arraigned for having committed custodial death. There is strong *prima facie* evidence to show the complicity of the applicant. Attention of the Court was invited to the statement of Ravindra Bhoir, Police Naik, who was then attached to Koparkhairane Police Station. It was urged that the role of the applicant has been clearly stated by Ravindra Bhoir. Therefore, the applicant does not deserve to be enlarged on bail.

8. Undoubtedly, the accusations of custodial death are of grave nature and the Court is required to deal with such a case in a realistic manner and with the sensitivity it deserves. It is this overarching consideration, which had weighed with

this Court in rejecting the application for pre-arrest bail of the applicant by an order dated 5th October, 2023. This Court had noted the enunciation of law in the cases of *State of M.P. vs. Shyamsunder Trivedi and ors.*¹ and *Yashwant vs. State of Maharashtra*².

9. However, at this stage, the attendant circumstances cannot be lost sight of. As noted above, co-accused have been released on bail. Undoubtedly, the applicant cannot claim parity as the co-accused were released on default bail. Nonetheless, the fact that, in the intervening period, investigation is complete and charge-sheet has been lodged also deserves to be taken into account.

10. Though at this juncture, I am not inclined to delve deep into the submissions on behalf of the applicant that there are multiple possible causes due to which the deceased might have suffered death, as this Court is not expected to have a meticulous evaluation of the evidence and material on record. Yet, the role attributed to the applicant deserves to be kept in view. The panchnama of the transcript of CCTV footage, which the prosecution heavily relies upon, indicates that on the date of occurrence at about 06:26:58 a.m., the

1 (1995) 4 SCC 262.

2 2018 SCC Online SCC 1336.

applicant was seen charging on the person of deceased and pressing the deceased by his feet. The statement of Ravindra Bhoir also proceeds on the same line. In contrast, co-accused Prakash Patil has been attributed with the role of assaulting the deceased by means of stick, fist and kick blows repetitively. The role attributed to the applicant in the CCTV footage does not last more than 16 seconds.

11. In the aforesaid view of the matter, at this stage, when the applicant has been in custody since 11th October, 2023, investigation is complete and charge-sheet has been lodged, further detention of the applicant does not seem warranted.

12. The applicant appears to have roots in society to tie him down to his place of employment and abode. Possibility of fleeing away from justice appears quite remote.

13. I am, therefore, persuaded to exercise discretion in favour of the applicant.

14. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.359 of 2022, registered with Koparkhairane Police Station,

Navi Mumbai, on furnishing a PR Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

- (iii) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.

[N. J. JAMADAR, J.]