

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

CRIMINAL BAIL APPLICATION NO.821 OF 2024

Riyaz Samad Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. V.V. Purwant a/w Mr. Suraj V. Gadkari, Advocate, for the Applicant.
Mrs. R.V. Newton, APP, for Respondent-State.
Mr. Jagdish S. Shelkar, (I.O.) Panvel Taluka Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 2nd September 2024

P. C.

1. Heard Mr. Purwant, learned Counsel for the Applicant and Mrs. Newton, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C.R. No.	282 of 2022
2.	Date of registration of F.I.R.	15 th December 2022
3.	Name of Police Station	Panvel Taluka Police Station, District-Raigad
4.	Section/s invoked	302, 201, 404 and 34 of <i>I.P.C.</i> , 1860.
5.	Date of incident	13 th December 2022
6.	Date of arrest	18 th December 2022
7.	Date of filing Charge-sheet	16 th March 2023

3. The prosecution case is set out in Paragraph Nos. 5 to 7 of the Order dated 15th January 2024 passed by learned Additional Sessions Judge, Panvel below Exhibit 3 in Sessions Case No.106 of 2023 by which the Bail Application filed by the Applicant is rejected. The said paragraph Nos. 5 to 7 read as under:

“5. The deceased is one Urvi Satyanarayan Vaishnav, age 27 years. She was working as a waiter in a Sona Bar at Nerul. She had got acquaintance with accused No.1. He worked as a gym trainer. They developed friendly relations and resulted into love relations. Accused No.1 promised to marry with her in the month of January 2023. It was discord in between them since deceased used to talk and inquire relating to him with others. The incident of murder took place on 13.12.2022. On the day of incident, accused No.1 took her from her residence in her car. The accused No.2 was with them. He pressed her throat by one nylon wire and her dupatta. Accused No.1/applicant by the said car have gone through village Dhamni and thrown her body from the bridge in a river. The accused No.1 came back to her home and parked her car and then taken away his motorcycle.

6. Initially, unknown body of a woman was found to the Panvel Taluka Police station. The said dead body has ligature marks and injuries to her body. On that count, P.S.I Umesh Gutal lodged the report dated 15.12.2022 at Police

Station, Navin Panvel. The Police Station officer registered Crime No.282/2022 for the offence under Section 302 of the Indian Penal Code against unknown person. Later on, name of present applicant/accused and other accused are disclosed. During investigation, investigating officer further added Sections 201, 404, 34 of the Indian Penal Code.

7. The applicant/accused is arrested on 18.12.2022 and produced before the Court on 19.12.2022 and remanded to police custody till 23.12.2022 and it was extended till 28.12.2022. Thereafter accused was remanded to judicial custody as per order Dated 28.12.2022. The applicant/accused is presently in judicial custody.”

4. It is the submission of Mr. Purwant, learned Counsel for the Applicant that the entire case is based on circumstantial evidence. He submits that except the evidence in the nature of CCTV footage, which at the most shows that the Applicant was last seen together with the deceased and that the Applicant has withdrawn money by using ATM card of the deceased, there is no other evidence against the Applicant. He submitted that as per the Charge-sheet, there are 49 witnesses proposed to be examined by the prosecution and therefore the trial will take considerably long time to conclude.

5. On the other hand, Mrs. Newton, learned APP vehemently opposed the Bail Application. The Bail Application has been opposed by the State of Maharashtra by filing Affidavit of Mr. Jagdish Sitaram

Shelkar, Police Inspector attached to Panvel Taluka Police Station, Navi Mumbai, District- Raigad dated 30th August 2024. Mrs. Newton has pointed out various contentions raised in the Affidavit.

6. She pointed out Paragraph Nos. 15 to 19 of the Order dated 15th January 2024 passed by learned Additional Sessions Judge, Panvel by which the Bail Application of the Applicant is rejected. The said paragraph Nos. 15 to 19 read as under:

“15. In pursuance of statement of brothers of deceased, the investigating officer collected C.C.Tv footage of the house of deceased. The said C.C.Tv footage alongwith certificate vide Section 65B of Evidence Act are placed on record. On perusal of the said C.C.Tv footage, it transpires presence of applicant at the house of deceased. He came at her house in evening and parked his Bullet. Later he took deceased in her car and then went away. In midnight he came back and parked her car. That time, he was alone. He has taken his Bullet. His presence at the house of deceased before and after commission of offence is made out. The statement of brother of deceased is corroborating to the said footage. The brother of deceased namely Jitendra has seen the applicant with deceased lastly.

16. Subsequently the investigating officer collected CDR of mobile of accused No.1 and 2 as well as CDR of mobile of deceased. The accused No.2 is the friend of applicant. On the day of incident, during 16.44 to 21.39, there were total nine phone calls in between them as per the CDR. The

mobile tower location of present applicant and accused No.2 during the period of incident was in the premises of Shilphata, Nerul, Khanda colony, Nere, Aakurli, Panvel.

17. The investigating officer further collected footage of one petrol pump of the date of incident at 21.58 hours to 22.00 hours. The said footage is subsequent to the incident. The petrol was filled in the said car of deceased. Then he has parked the car at the house of deceased.

18. The investigating officer further collected footage of ATM at Khoparkhairane. The ATM card of deceased was with the applicant. This applicant has withdrawn amount of Rs.50,000/- on 14.12.2022, at about 00.57 to 1.02 hours. Then subsequently he withdrawn amount of Rs.1,50,000/- through one unknown lady from a ATM at Nerul. The C.C.Tv footage of the said ATM is collected wherein presence of the applicant at ATM Koparkhairane is located.

19. Subsequent to the incident, the applicant visited her house and parked her car and then he took out his Bullet. He withdrawn the amount from ATM. He was in touch with brothers of deceased on phone. He was with the brothers of the deceased when they have been to police station to lodge missing report. This applicant has taken help of the accused No.2. This accused No.2 with the help of nylon wire strangled her neck and then this applicant thrown her body in a river from a bridge.”

7. On the basis of material which is considered by the learned Additional Sessions Judge, it is her submission that although the case is of circumstantial evidence, the circumstances are incriminating in nature and therefore the Bail Application be rejected. She submitted that as far as the Applicant is concerned, there are two antecedents as per the following details:

(a) C.R. No. 393 of 2016, registered with Hill-Line Police Station, Ulhasnagar -5, District-Thane, for the offences punishable under Sections 420, 464, 465, 466, 467, 468, 470, 471, 474 of *Indian Penal Code*;

(b) C.R. No.134 of 2017, registered with Kalyan Police Station, District Thane, for the offences punishable under Sections 420, 406, 465, 467, 468, 471 r/w 34 of *Indian Penal Code*.

Mrs. Newton submitted that the Applicant is habitual offender and therefore, the Bail Application be rejected.

8. As far as the antecedents are concerned, Mr. Purwant, learned Counsel for the Applicant submitted that in C.R. No. 393 of 2016, a learned Single Judge of this Court has granted anticipatory bail to the Applicant by Order dated 14th July 2021 passed in Anticipatory Bail Application No. 1526 of 2021. He submits that as far as C.R. No.I 134 of 2017 is also concerned, the Applicant has been released on bail.

9. Perusal of the record shows that the incident in question has taken place on 13th December 2022, F.I.R. was registered on 15th December 2022, the Applicant is arrested on 18th December 2022, the Charge-sheet is filed on 16th March 2023 and till date, there is no progress in the trial and even the charge is also not framed. As per the Charge-sheet, there are 49 witnesses proposed to be examined. Accordingly, the trial is likely to take a considerably long time.

10. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹

11. Mr. Purwant, learned Counsel for the Applicant, after instructions, states that as there are antecedents registered in different Police Stations of Thane district, and as there is apprehension expressed that the Applicant may influence the witnesses, the Applicant will therefore stay at Room No. 506, Building No. 26, MHADA Colony, Gautam Nagar, Govandi (West), Mumbai.

12. The Applicant does not appear to be at risk of flight.

¹ Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

13. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

14. In view thereof, the following order:-

ORDER

(a) The Applicant – Riyaz Samad Khan be released on bail in connection with C.R. No.282 of 2022 registered with the Panvel Taluka Police Station, District- Raigad on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter Thane district after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.

(c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Govandi Police Station, District - Mumbai on Sunday of every week between 11.00 a.m. and 1.00 p.m. until the conclusion of trial. The Police Inspector of Govandi Police Station, District- Mumbai to communicate details thereof to the Investigating Officer.

(e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

(f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

(g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

15. The Bail Application is disposed of accordingly.

16. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this Order.

BHALCHANDRA
GOPAL DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2024.09.02
20:37:42 +0530

(MADHAV J. JAMDAR, J.)