

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

CRIMINAL BAIL APPLICATION NO.1368 OF 2024

Shubham *alias* Baba Uddhav Kamble

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ranjeet M. Pawar, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for Respondent- State.

Mr. I.R. Pathan, Police Hawaldar, B.No.1838, Daund Police Station,
present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 13 June 2024

P. C.:

1. Heard Mr. Pawar, learned Counsel for the Applicant and Ms. Kaushik, 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.	64 of 2023
2.	Date of registration of F.I.R.	29th January 2023
3.	Name of Police Station	Daund, District-Pune
4.	Section/s invoked	302, 397, 120(B), 201, 34 of the <i>Indian Penal Code, 1860</i> .
5.	Date of incident	28th January 2023
6.	Date of arrest	29th January 2023
7.	Date of filing Charge-sheet	27th April 2023

3. As per the prosecution case, on 28th January 2023, the deceased along with his friend Accused No.1-Kishor Khandale went to meet Vaishali Kokate-sister of the deceased, residing at Kashti, Taluka-Shrigonda, District-Pune for bringing Rs.30,000/-. It is the case of the prosecution that while returning to the residence of the deceased at Khandoba Nagar, Morgaon Road, Taluka-Baramati, District-Pune, Accused No.1-Kishor Khandale, Accused No.2-Shubham Kamble (present Applicant), Accused No.4-Suraj Khandale and the deceased had dinner together on the night of 28th February 2023 at 'Priyanka Bar and Restaurant', Kurkumbh and they all were present there for a considerable duration and thereafter in the morning on 29th January 2023 at about 9.00 am., mortal remains of the deceased were found.

4. Mr. Pawar, learned Counsel for the Applicant submitted that the case is of circumstantial evidence. The only material against the Applicant is 'last seen together' and recovery of two-wheeler of the deceased at the instance of the Applicant. He submitted that as far as recovery of two-wheeler is concerned, it is from the open space. He submitted that the motive for committing the offence in question was theft of Rs.30,000/-. He submitted that the recovery of the substantial amount of Rs.27,800/- is at the instance of Accused No.1. He submitted that there is no recovery of money at the instance of the Applicant. Therefore, he submitted that the Applicant be enlarged on bail. He

submitted that there are no other antecedents.

5. Ms. Kaushik, learned APP on the other hand, strongly opposed the Bail Application. She submitted that although the case is of circumstantial evidence, two circumstances i.e. the Applicant was last seen together with the deceased, Accused No. 1 and Accused No. 4 and that there is recovery of two-wheeler of the deceased at the instance of the Applicant, are incriminating circumstances and therefore the Bail Application be rejected. After taking instructions, she submitted that the Applicant has no antecedents.

6. Perusal of the record shows that the incident in question took place on the intervening night of 28th January 2023 and 29th January 2023. The Applicant was apprehended on 29th January 2023 and the Charge-sheet was filed on 27th April 2023. There are 27 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the Charge is also not framed yet. The trial is likely to take a considerably long time.

7. Although the Applicant was last seen together with the deceased and Accused Nos.1 and 4, the alleged motive is theft of Rs.30,000/-. An amount of Rs.27,800/- i.e. very substantial amount has been recovered at the instance of Accused No.1. There is no recovery of any amount at the instance of the present Applicant.

8. As far as the recovery of two-wheeler is concerned, the recovery of the two-wheeler of the deceased was on 31st January 2023 and it is from the open space.
9. The Applicant does not appear to be at risk of flight.
10. The Applicant does not have any criminal antecedents.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
12. In view thereof, the following order:

ORDER

- (a) The Applicant- Shubham *alias* Baba Uddhav Kamble be released on bail in connection with C.R. No.64 of 2023 registered with the Daund Police Station, District-Pune on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (b) 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.
- (c) The Applicant shall report to the Daund Police Station, District-Pune on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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.

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

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

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

13. The Bail Application is disposed of accordingly.

14. It is clarified that the Trial Court shall decide the case on its own merits uninfluenced by the *prima facie* observations made in this Order.

BHALCHANDRA
GOPAL
DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2024.06.13
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[MADHAV J. JAMDAR, J.]