

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

BAIL APPLICATION NO. 1443 OF 2024

Sudhir Dnyandeo Pawar

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Sanjeev Kadam with Pratik Deshmukh, Mayur Sanap, Prashant Raul i/b Ms. Aditi Rajput, Advocate for Applicant.

Mrs. S. M. Yadav, APP for State-Respondent.

CORAM:- ANIL S. KILOR, J.

DATED:- 5th JULY, 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. 644 of 2021, registered with Indapur Police Station, District: Pune, for the offences punishable under Sections 302 and 201 read with Section 34 of Indian Penal Code (for short 'IPC').

3) The allegations against the applicant is that he along with co-accused committed murder of the deceased. The deceased died due to strangulation. The whole case is based on circumstantial evidence.

4) The learned APP heavily relied upon the statements of witnesses namely, Madhavi Pawar, Amol Rajkumar Shirsath and one more witness Ramesh Trimbak Madake, whose statements was recorded under Section 164 of Code of Criminal Procedure, 1973.

5) The witness Madhavi Pawar tells about the extra judicial confession given to her brother-Amol Shirsath by co-accused Dnyandev Vitthal Pawar. The witness Amol Shirsath speaks about the presence of the deceased on the date of the incident at the spot of incident. Whereas, in the statement under Section 164 of Code of Criminal Procedure, 1973, witness- Ramesh Madake states that when he went to the spot, he and saw that Dnyandev and Sudhir were trying to kill the deceased by putting around something around his neck.

6) Admittedly, the incident is on 10th July, 2021, whereas the statement of the wife of the deceased was recorded on 23rd July, 2021. The statement of witness Amol Shirsath was recorded on 12th July, 2021 and the statements of Ramesh was recorded on 3rd September, 2021, under Section 164 of Code of Criminal Procedure, 1973. Witness Ramesh refers only to two persons namely Dnyandev and Sudhir Pawar and there is no reference to the third accused person. The call record also does not support the case of the prosecution as regards the present applicant.

7) In the above referred backdrop, it is important to note that the charge-sheet has been filed and the applicant is in jail from last three years. Thus, I am of the opinion that custodial detention of the present accused is no more warranted.

8) Furthermore, even if Ramesh Madake is considered as eye-witness, it is not safe to rely upon his statement for the reason that no explanation has come on record as to why he did not try to save the life of the deceased or why he did not inform the said incident immediately either to police or family of the deceased.

9) In the circumstances, as there are no criminal antecedents against the applicant in addition to the reasons recorded above, I am of the opinion that the applicant is entitled for grant of bail.

ORDER

- i) The Criminal Bail Application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No. 644 of 2021, registered with Indapur Police Station, District: Pune, for the offences punishable under Sections 302 and 201 read with Section 34 of Indian Penal Code (for short 'IPC'), on furnishing P.R. Bond of Rs.25,000/-(Rupees Twenty-Five Thousand) with solvent surety in the like amount;
- iii) The Applicant shall not enter within the territorial jurisdiction of Pune District, till conclusion of trial except for attending trial;
- iv) The applicant shall attend the said Police Station on 1st and 16th day of each month between 12:00 noon and 2:00 p.m., 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 for cancellation of bail in case the applicant commits the similar offence.

vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

The Criminal Bail Application is **disposed of** accordingly.

[ANIL S. KILOR, J.]