

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

BAIL APPLICATION NO. 1881 OF 2024

Akash Ramdular Rajbhar

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Pramod G. Kathane a/w Mr. Prabhakar Ranshur, for Applicant.
- Ms. Rutuja A. Ambekar, APP for Respondent.
- Mr. Kunal Chaudhari, PSI, Talasari Police Station, present

CORAM : MANISH PITALE, J.

DATE : 05th July, 2024.

P. C. :

1. Heard, Mr. Pramod Kathane, learned counsel for the applicant and Ms. Rutuja Ambekar, learned APP for the State.
2. The applicant is seeking bail in connection with First Information Report No.0230 of 2020 dated 08th November, 2020, registered at Police Station Talasari, District Palghar, for offences under Sections 302, 201 and 364 of the Indian Penal Code (IPC).
3. The FIR was initially registered against unknown person, as the decomposed body of the victim was found in a water body near a dam. Investigation carried out by the police led to the arrest of the applicant and the co-accused person on 23rd November, 2020. The co-accused person expired and now the applicant is the only person facing trial in the present case.

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4. According to the prosecution, there is sufficient material available on record to indicate the involvement of the applicant in the incident in question. It is alleged that the applicant along with co-accused person assaulted the victim and they took him in an injured state in a van. Thereafter, they strangled the victim and threw his body in the water body near the dam.

5. The learned counsel for the applicant firstly invited attention of this Court to order dated 12th October, 2023, passed in Bail Application No. 325 of 2023, which was an application preferred by this very applicant. The said application was permitted to be withdrawn with liberty to apply for bail after sometime. This Court (*Coram : M.S. Karnik, J.*) recorded in the said order that since the applicant was in custody for more than 3 years, the Trial Court should expedite the trial, if possible.

6. In this context, the learned counsel for the applicant submitted that although the charge-sheet was filed as far back as on 08th February, 2021, there is hardly any progress in the trial. Charges have been framed, but not a single witness has been examined.

7. It is further submitted that even on merits, the applicant has a strong case, for the reason that there is no eye witness to the incident and one

lady who is claimed to be an eye witness has shifted her stand in her statement recorded under Section 164 of the Cr.P.C. It is further submitted that even if the statement of the other witnesses recorded during the course of investigation are to be taken into consideration, there is hardly any material to link the applicant with the incident in question. According to the learned counsel for the applicant, the prosecution is simply relying upon statements recorded and memorandum executed under Section 27 of the Evidence Act of the co-accused, which cannot be the sole basis for claiming that a *prima facie* case is made out against the applicant. It is submitted that long incarceration as an under trial itself is a ground for enlarging the applicant on bail and that therefore, this Court may allow the present application.

8. On the other hand, learned APP has opposed the prayer. This Court is informed that two witnesses are already summoned for examination on 16th July, 2024. Upon instructions, it is stated that the prosecution intends to examine only 16 witnesses and that the trial can be completed expeditiously. It is submitted on the merits of the matter, there is sufficient oral and documentary evidence on record to connect the applicant with the incident in question and that therefore, the present application deserves to be dismissed.

9. As regards the contentions raised on merits, this Court finds that

one lady i.e. Santi Dasma Khevra stated that she was at the place of the incident and that she did see the assault inflicted upon the victim. She also stated that although the faces of the accused persons were covered, during the incident their faces were exposed and she would be able to identify the persons. The said witness did identify the said applicant. Her statement recorded under Section 164 of the Cr.P.C. does indicate that towards the end she has stated that she had seen the two persons assaulting the victim but she may not be able to remember their faces.

10. But, the statement of another witness Suraj Salunke is relevant. He is the person from whom the applicant had taken the van, which was allegedly used for transporting the injured victim and also for disposing of his body after he was killed. It is alleged that the string of the seat-cover of the van was used to strangle the victim and according to the said witness, who is said to be the owner of the van, the said cover was missing when the van was returned. He specifically stated that the van was taken by the applicant on the date of the incident. There is other such material on record, including recovery of alleged weapon of assault, which indicate the possible involvement of the applicant in the incident in question.

11. In view of the above, this Court is not inclined to grant the prayer in the present application.

12. But, this Court cannot be oblivious of the fact that the applicant has remained behind bars since 23rd November, 2020. The statement made on behalf of the prosecution that only 16 witnesses are proposed to be examined, does indicate that the trial can be completed expeditiously.

13. In view of the above, the application is dismissed. The Trial Court is directed to complete the trial as expeditiously as possible and in any case within a period of 9 months from today. In the event the trial is not completed within the said period of time and the delay is not attributable to the applicant, he is granted liberty to renew his application for bail.

(MANISH PITALE, J.)