

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

CRIMINAL BAIL APPLICATION NO.2067 OF 2024

Raosahab Maruti Kambale

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Ramanik Pawar a/w Samiksha Pawar a/w Dhanashree Jagdale a/w Samadhan Mahmulkar a/w Trupti Jambulkar, Advocate for Applicant.
- Smt. Manisha R. Tidke, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 20th JUNE, 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.I-37/2018, dated 26/02/2018, registered with Ichalkaranji Police Station, Kolhapur, under sections 143, 144, 147, 148, 149, 307, 302, 324, 504, 506 r/w 34 of the Indian Penal Code. The Applicant was arrested on 27/02/2018. Since then he is in custody except for the period when he was released on temporary bail during pandemic for a period of 4 months.

2. Heard Mr. Ramanik Pawar, learned counsel for the Applicant and Smt. Manisha R. Tidke, learned APP for the State.
3. Till today, the charges are not framed. The matter was on board before the Trial Court on many occasions. The Applicant had earlier approached this Court on three occasions for his release on bail. On the first occasion this Court had rejected his Criminal Bail Application No.1661 of 2019 on 11/09/2019 vide a reasoned order. Thereafter he had again preferred Criminal Bail Application No.1711 of 2021. It was withdrawn on 30/06/2021, but the trial was expedited. In spite of that there is no progress in the trial. Even directions of the High Court issued to the Trial Court are not complied with.
4. Learned counsel further submitted that, in the meantime, the co-accused Sanjay Kambale preferred Bail Application No.1336 of 2024. This Court (Coram : Madhav J. Jamdar, J.) vide order dated 15/04/2024 granted bail to this co-accused because there was no progress in the trial. He, therefore submitted that on the ground of parity, the Applicant be released on bail. There is substantial change in the circumstances.

5. Learned APP opposed these submissions she submitted that the offence is serious and directions can be issued to the trial Court to conclude the trial at the earliest.

6. I have considered these submissions. The prosecution case is that, there was dispute between Ramesh Kamble and Ganesh Kamble on one side and present Applicant's group on the other. On 25/02/2018 at about 11.00 a.m. the Applicant and 7 others came to the house of Ganesh and Ramesh. It is alleged that the Applicant gave blow with knife on Ramesh's stomach. The co-accused Sanjay who is granted bail gave blows with knife on Ganesh's stomach and other parts. The others assaulted the injured with sticks. The accused Uttam Kamble also assaulted Ganesh with knife. The injured were taken to hospital. Ganesh succumbed to his injuries.

7. The FIR was lodged by Nagesh Shejale on 26/02/2018 at about 02.00 a.m. He was an eyewitness. He was cousin of Ramesh and Ganesh. He has described the incident and has

narrated that the Applicant gave blows on Ramesh and the co-accused Sanjay on Ganesh with knives. There are other eyewitnesses to the incident namely Rajaram Kamble and Anandibai. They have also described the incident exactly in the same manner. Apart from that, the witnesses viz. Bhagyashree Kamble, Jyoti Kamble and Akshay Kamble have also narrated the incident. Akshay has given the same specific roles. Apart from these eyewitnesses, the statement of Ramesh is also important. He has also attributed specific role to the accused including the present Applicant. There is recovery of the weapons at the instance of the Applicant. Thus, there is sufficient material against the present Applicant. However, subsequent to the earlier orders rejecting his bail application, there is a serious change in circumstance because the co-accused Sanjay was granted bail by a coordinate bench of this Court. His role is more serious because he had given blows of knife on the stomach of the deceased. In this view of the matter, the principle of parity applies. But the other important circumstance is that the trial has not even commenced yet. So many dates have passed. The prosecution will have to take corrective steps

immediately. The Trial Court will have to take steps so that all these matters are treated with seriousness they deserve. However, considering that the main co-accused Sanjay is granted bail, on the ground of parity, the Applicant deserves to be released on bail. The Applicant is in custody for a very long period. The trial has not even commenced. The Applicant cannot be detained as an under-trial prisoner for indefinite period.

8. Hence, the following order :

ORDER

- (i) In connection with C.R.No.I-37/2018, dated 26/02/2018, registered with Ichalkaranji Police Station, Kolhapur, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall not enter Ichalkaranji except for reporting to the Investigating Officer if called and for attending trial.

- (iii) The Applicant shall attend the nearest Police Station from his residence once every week for a period of one year from today.
- (iv) He shall attend the dates in the trial Court diligently.
- (v) He shall not tamper with the evidence.
- (vi) The Applicant shall surrender his passport, if any, to the Investigating Officer.
- (vii) The application is disposed of.

(SARANG V. KOTWAL, J.)