

(This order is corrected as per speaking to minutes order dated 22nd October 2024.)

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

BAIL APPLICATION NO. 2110 OF 2024

Sandeep Hanumat Badadhe

... Applicant

Versus

The State of Maharashtra

... Respondent

Mr. Kamar A. Shaikh a/w Mr. Harsh Dehia for the Applicant.

Mr. Balraj B. Kulkarni, APP for Respondent-State.

Ms. Mamta Munjal, PSI, Mahatma Phule Chowk Police Station,
Kalyan.

CORAM: MANISH PITALE, J.

DATE : 16th OCTOBER 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is seeking bail in connection with FIR No. I-433 of 2018 dated 21st October 2018 registered at Mahatma Phule Chowk Police Station, Dist. Thane, for offence under Section 302 of the Indian Penal Code, 1860 (IPC).

3. The applicant was arrested on very same date of the registration of the FIR and he has remained behind bars since then.

4. The statement of the informant, which led to registration of the FIR, describes in detail as to how the applicant emerged from

a hotel room, where the informant was working as a cleaner, with his clothes smeared with blood. It is stated that in such a condition, the applicant himself stated that he had done away with the victim for the reason that the victim was not returning his money. The weapon of assault i.e. *koyta* was recovered from the spot of the incident. Although, the applicant is said to have run away, he was eventually nabbed on the very date of registration of the FIR. The investigation was completed and charge-sheet was filed in January 2019.

5. The learned counsel for the applicant has raised two grounds in support of the present bail application. Firstly, reference is made to certain statements and documents on record to raise doubt about the use of the weapon of assault. It is also claimed that when the record demonstrated that the applicant had himself suffered injuries, the injury report pertaining to the applicant, contained overwriting, which indicated serious doubt about the prosecution story, as to the manner in which the incident occurred and the extent of the involvement of the applicant. It is submitted that such material creating doubt about the prosecution story, was enough to demonstrate a strong case on merits in favour of the applicant.

6. Secondly, it was submitted that the applicant having undergone incarceration for 6 years, deserves to be enlarged on bail because even the charge has not been framed and the list of witnesses in the charge-sheet shows that the prosecution intends to

examine as many as 44 witnesses. Since there is no possibility of the trial being completed in a reasonable period of time, the applicant deserves to be enlarged on bail. In that context, reliance is placed on orders of this Court in the case of ***Imamuddin Sukrulla Khan v/s. The State of Maharashtra*** (order dated 6th February 2024 passed in Criminal Bail Application No. 46 of 2024), order passed in the case of ***Akshay Anil Walode v/s. The State of Maharashtra*** (order dated 22nd February 2024 passed in Criminal Bail Application No. 40 of 2024) and orders passed by the Supreme Court in the case of ***Indrani Pratim Mukerjiae v/s. Central Bureau of Investigation & Anr., 2022 SCC OnLine SC 695*** and ***Javed Gulam Nabi Shaikh v/s. State of Maharashtra & Anr., 2024 SCC OnLine SC 1693***.

7. On the other hand, the learned APP submitted that the grounds sought to be raised on merits on behalf of the applicant, are a matter for trial and he cannot claim relief of bail by pressing such grounds. He submits that the material on record sufficiently makes out a strong *prima facie* case against the applicant and considering the brutal manner in which the victim was assaulted and killed, the applicant does not deserve any indulgence. As regards the second ground of long incarceration, it is submitted that the orders of the Supreme Court, on which the applicant seeks to rely, can be distinguished on the basis of the number of witnesses that were sought to be examined in those cases and the orders passed by this Court can also be distinguished on the

ground that such orders were passed in a situation, where the applicants had to file second bail applications after the specific direction for expeditious disposal of trials, while dismissing the initial bail applications, could not be complied with. It was submitted that in the present case, since the list of witnesses shows 44 witnesses and in practical terms, fewer witnesses would be examined, this Court may not enlarge the applicant on bail on the aforesaid second ground.

8. This Court has considered the rival submissions. The material on record shows that there are eye-witnesses other than the informant, who have stated as to the manner in which the applicant and the victim were together in the hotel room, where the scuffle started. They were standing outside the room and considering the nature of scuffle that took place in the room, the Police was alerted. In the meanwhile, the applicant came out of the room with his clothes smeared with blood. Apart from the fact that the informant stated that the applicant himself admitted to having killed the victim, it was found that the victim was lying in a pool of blood, with severe injuries on his body. He was declared dead. The weapon of assault i.e. *koyta* was recovered from the spot of the incident.

9. Having considered such material and the statements of witnesses recorded during the course of investigation, this Court is of the opinion that a strong *prima facie* case is indeed made out against the applicant, as regards the offence registered against him.

10. As regards the contention raised on behalf of the applicant about overwriting in the injury certificate pertaining to the victim's medical examination, suffice it to say that it would be a matter for trial, as to what advantage will accrue to the applicant, in the light of the said overwriting in the injury certificate. The aforesaid factor in itself does not render the prosecution case doubtful, as is claimed by the applicant. The applicant has failed to make out his case on merits and hence, the first ground is rejected.

11. As regards the second ground pertaining to long incarceration, at first blush, the said contention does look impressive, particularly in the light of the orders passed by the Supreme Court, upon which the learned counsel for the applicant has placed reliance, but a closer look at the orders of the Supreme Court shows that apart from the period of incarceration undergone by the accused therein, the Court took into consideration the number of witnesses proposed to be examined by the prosecution. In the case of *Indrani Pratim Mukerjee v/s. Central Bureau of Investigation & Anr.* (supra), the prosecution intended to examine 237 witnesses and the Supreme Court found that even if 50% witnesses were not to be examined, the trial would evidently take a long period of time. Another aspect considered in the said case was that the accused being a woman was entitled to special consideration under the provisions of the Code of Criminal Procedure, 1973.

12. In the present case, the charge-sheet shows a list of 44

witnesses and the learned APP has made a statement that during the course of trial, fewer witnesses will be examined. It is to be noted that the two orders of this Court, upon which the learned counsel for the applicant placed much reliance, were passed when the applicants/accused in those cases had approached this Court in the second round, after their applications had been dismissed on merits in the earlier round, with specific direction for expediting the trial. It was in such circumstances, that this Court found it fit to enlarge the accused on bail.

13. Considering the aforesaid material, this Court is not inclined to allow the present application, only on the ground of long incarceration. Efforts can certainly be made to expedite the trial and complete the same within a specific period of time. The prosecution as well as the applicant are expected to cooperate with the concerned Court for disposing the trial at the earliest.

14. In view of the above, the application is dismissed.

15. However, the trial Court is directed to frame charges, at the earliest and in any case, within 6 weeks from today. The trial shall be expedited and it shall be completed on or before 31st October 2025. The prosecution as well as the accused i.e. the applicant, shall cooperate with the trial Court for abiding by the said direction.

16. It is made clear that if the trial is not completed within the

aforementioned period of time and the delay is not attributable to the applicant, the applicant would be at liberty to renew his prayer for bail.

MANISH PITALE, J.