

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2372 OF 2024

Babaso @ Babasaheb Jalinder Balshankar ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Ritesh Thobde a/w Mr. Changdev Shingade, for the
Applicant.

Ms. P. P. Bhosale, A.P.P. for the Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 12th DECEMBER, 2024

PC:-

1. Heard Mr. Thobde, learned Counsel appearing for the Applicant and Ms. Bhosale, learned A.P.P. 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.	529/2022
2	Date of registration of F.I.R.	21.09.2022
3	Name of Police Station	M.I.D.C. Police Station, Dist: Solapur.
4	Section/s invoked	302, 120-B, 201 r/w section 34 of the Indian Penal Code.
5	Date of incident	21.09.2022
6	Date of arrest	22.09.2022
7	Date of filing Charge-sheet	17.12.2022

3. Mr. Thobde, learned Counsel appearing for the Applicant at the outset points out the order dated 15.03.2024 passed by this court in Criminal Bail Application No.3864 of 2023 filed by Aruna Dasharath Narayankar i.e. Accused No.2. The present Applicant is accused No.1. By the said order dated 15.03.2024, this Court expressed disinclination to grant bail and therefore learned Counsel appearing for the Applicant sought withdrawal of the Bail Application with liberty to file a fresh Bail Application after a period of 10 months, if there is no substantial progress in the trial. Mr. Thobde, learned Counsel appearing for the Applicant states

that, except framing of the charge on 18.08.2023, there is no progress in the trial. He states that there are about 38 witnesses proposed to be examined by the prosecution and therefore the trial will take considerable time to conclude. It is his submission that the case is of circumstantial evidence and there are no incriminating circumstances. He submits that the Applicant has no other criminal antecedents.

4. On the other hand Ms. Bhosale, learned A.P.P. strongly opposed the Bail Application. She submits that there are various incriminating circumstances. She points out the Whats-app chats, which the co-accused i.e. Accused No.2 has sent to the Accused No.1. She submits that the State of Maharashtra has filed detailed Affidavit of Vijay Sunil Bansude, Police Sub Inspector, presently attached to M.I.D.C. Police Station, Solapur City, Dist: Solapur dated 02.11.2024. She submits that there is a statement of daughter of Accused No.2 and that the said daughter has identified the present Applicant. She also submits that the present Applicant has got prescription of Dr. S.G. Mankar and purchased medicines from

Shree Pharma, 163, Ravivar Peth, Solapur and that the Applicant purchased medicine Solopose 0.25 M.D., Eerzal Powder-Orange, Pantosec D on 19.09.2021 and the said medicines are used in the crime. She submits that there is recovery of knife and clothes at the instance of Applicant. She therefore submitted that although the case is of circumstantial evidence, there are incriminating circumstances and therefore Bail Application be rejected.

5. The learned Sessions Judge Solapur by order dated 22.11.2023 passed below Exhibit-26 in Sessions Case No.8 of 2023 rejected the Bail Application filed by the present Applicant. The case of the prosecution is set out in Paragraph Nos.4 to 6 which reads as under :

“4. Record shows that, initially, the wife of the deceased i.e. accused No.2 lodged the report that, she and her daughter went to sleep at about 11.30 p.m. Around 03.00 a.m. in the night, she heard some sound and went in the kitchen. She found her husband lying in pool of blood and so she started screaming. One unknown person was sitting besides the sewing machine having rope in his hand. Her daughter came there. Their maternal uncle Rakmaji (landlord) came at the front door and started knocking the door. The unknown person fled from the main door.

5. The investigation transpired that, the

Applicant/accused No.1 and the informant (i.e. accused No.2) were having love affair and accordingly they hatched conspiracy to eliminate Dashrath, the husband of informant (i.e. accused No.2). There are what's up conversation between them just before the incident. Said conversation suggests that accused No.2 had administered some sleeping pills to the deceased. She had kept the door open and informed her paramour i.e. Applicant/ accused No.1 that her husband is sleeping in the kitchen.

6. The incident had occurred at the house of the deceased. Therefore, presence of accused No.2 and her daughter in the house is natural. The daughter of accused No.2 was testified by the investigating officer and she had narrated that she woke due to the screaming of her mother. She found her father in the pool of blood and blood was oozing from his neck. One person was standing near to her father and her mother caught hold her hand. Some one was knocking the main door of the house. Upon enquiry by the accused No.2, they came to know that their maternal uncle (landlord) was knocking the door. She and her mother (accused No.2) opened the door. At that time, said unknown person fled from the rear door. Her uncle chased him, but he could not capture him. The maternal uncle Rakmaji Kokane (landlord) was also testified by the investigating officer. He stated that he chased said person and he saw the person was holding knife in his hand. The person was wearing T-shirt and grey colour pant.”

6. It is true that, although the case is of circumstantial evidence, there are various incriminating cricumstances showing involvement of the applicant in crime. However, it is required to be noted that the Applicant is incarcerated since

22.09.2022 i.e. more than 2 years and 3 months. Till date except framing of charge on 18.08.2023, there is no progress in the trial. As per the prosecution, there are total 38 witnesses proposes to be examined by the prosecution. Therefore, it is clear that the trial will take a considerably long time.

7. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused¹. Therefore, the Applicant is entitled for bail. If the Applicant’s detention is continues, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial.

8. Accordingly, the Applicant is entitled to be enlarged on bail, as there is no possibility of conclusion of trial within a

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

reasonable time.

9. However, Ms. Bhosale, learned A.P.P. states that if the Applicant is released on bail, the Applicant will influence the witnesses.

10. In view of the said submission, Mr. Thobde, learned Counsel appearing for the Applicant on instructions submits that the Applicant will stay at C/o. Dnyaneshwar Rohidas Waghmare, Survey No.7/1, Konark Puram, Kondhva Khurd, Pune City, Pune 411 048.

11. The Applicant does not have any criminal antecedents.

12. The Applicant does not appear to be at risk of flight.

13. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant - Babaso @ Babasaheb Jalinder Balshankar be released on bail in connection with C.R. No.529 of 2022 registered with the M.I.D.C. Police Station, District-Solapur on his furnishing PR.

Bond of Rs.1,00,000/- with one or two local solvent sureties in the like amount.

- (b) The Applicant shall not enter District-Solapur after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial.
- (c) 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.
- (d) The Applicant shall report to the Kondhva Police Station, District- Pune once in a week on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Kondhva Police Station, District-Pune to communicate details thereof to the Investigating Officer.
- (e) 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.
- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

14. The Bail Application is disposed of accordingly.

15. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits and uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]