

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

CRIMINAL BAIL APPLICATION NO. 2640 OF 2024

Gautam Kumar Alias Budhan Rambali Yadav ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Siddhasen Yadav with Ms. Madhura Ayare, Chandrasen Yadav, for the applicant.

Mrs. Veera Shinde, APP for State-Respondent.

Mr. Sandip Salunkhe, API, Present.

CORAM:- ANIL S. KILOR, J.

DATED:- 9th AUGUST, 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. 28 of 2021 registered with Shikrapur Police Station, for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

3) The applicant was arrested on 25th February, 2021 and thereafter the charge-sheet was filed. There are no antecedents against the applicant. Furthermore, there is no progress in trial and till date the charge is also not framed. As far as the material collected by the Investigating Officer is concerned, it is evident from the same that, the deceased died after 30 days of the incident, and as far as the motive is concerned, it is the case of mis-identification.

4) The statements of witnesses show that immediately after the incidence, the deceased was taken to the hospital in injured condition. However, on a specific query to the learned APP to show the injury certificate issued by the hospital after the deceased was hospitalized on the date of incident, for the reason that I have already observed that the applicant died after 30 days of the incidence.

5) It may be noted that, no such certificate is shown. It appears that no injury certificate is available to show the injuries caused to the deceased in the alleged incident on the date of incident.

6) After the death, when the PM was conducted, six injuries were found on the person of the deceased. However, the said PM report is after 30 days of the incidence. A long span has lapsed in between the incidence and the death of the deceased.

7) In the circumstances, considering the nature of evidence available on record and further considering the period of incarceration coupled with the fact that there is no possibility of conclusion of the trial in near future, I am of the opinion that the applicant is entitled for grant of bail. Hence, I pass the following order.

ORDER

- i. The Bail Application is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No. 28 of 2021 registered with Shikrapur Police Station, for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860, on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one local solvent surety in the like amount;
- iii The applicant shall attend the said Police Station on 1st and 16th day of every month between 10.00 am to 12.00 noon., till the conclusion of the trial except on the date of trial;
- iv. 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;
- v. Liberty is granted to the State to apply cancellation of bail in case of breach of any condition or if the applicant commits similar offence.;
- vi. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.
- vii. Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]