

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

CRIMINAL BAIL APPLICATION NO. 2793 OF 2024

Bhagwan Kisan Sonawane

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Nikhil Hire, Advocate/s, for the Applicant.

Mrs. Rajeshree V. Newton, APP, for Respondent-State.

PSI, Bajirao Bhanudas Sanap, Malegaon – Chhavani Police Station,
present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 28th August 2024

P. C.

1. Heard Mr. Hire, learned Counsel for the Applicant and Mrs. Newton, learned APP 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.	28 of 2023
2.	Date of registration of F.I.R.	31 st January 2023
3.	Name of Police Station	Chhavani, Malegaon, District-Nashik
4.	Section/s invoked	302 r/w 34 of <i>I.P.C., 1860</i> ;
5.	Date of incident	30 th January 2023
6.	Date of arrest	31 st January 2023
7.	Date of filing Charge-sheet	24 th April 2023

3. The Applicant is Accused No.1. Accused No.2- Sandeep Kisan

Sonawane is the brother of the Applicant. The deceased is the mother of both the Accused. As per the prosecution case, both the Accused were habitual alcoholics and as they wanted money for purchasing liquor, they used to assault their mother. It is the case of the prosecution that certain land was proposed to be sold and therefore the mother of the Accused has received a certain amount and both the Accused wanted the said amount and therefore also frequent quarrel used to take place between the Accused and the deceased.

4. It is the case of the prosecution that the Accused used to assault the deceased i.e. their mother frequently. On 30th January 2023, at about 7.30 to 8.00 a.m., the present Applicant i.e. Accused No.1 went to his relative's place i.e. Rahul Shinde-Informant and informed him that the deceased had died by suicide and therefore he immediately went to the residence of the Accused and found the deceased hanging in the bathroom by a nylon rope.

5. The post-mortem examination report revealed the cause of death is 'Asphyxia due to strangulation'. Therefore, the FI.R. was lodged on 31st January 2023 and both the Accused were apprehended on 31st January 2023. It is the contention of Mr. Hire, learned Counsel for the Applicant that the case is of circumstantial evidence. There are no circumstances showing the involvement of the Applicant in the crime. He submitted that the post-mortem examination report shows that there

is no other injury and no mark of assault on the body. He submitted that therefore the Applicant be released on bail. Mr. Hire submitted that the Accused No.2- Sandeep Sonawane has been granted bail by this Court by Order dated 24th April 2024 passed in Criminal Bail Application No. 1700 of 2024. He states that the parity is applicable to the Applicant. He submitted that there are no criminal antecedents.

6. On the other hand, Mrs. Newton, learned APP vehemently opposed the Bail Application. She submitted that although the case is of circumstantial evidence, there are strong circumstances to show that the Applicant is involved in the crime. She submitted that the deceased was found hanging in the bathroom of the residence in which the deceased was residing along with both the Accused persons. She submitted that the post-mortem examination report clearly shows that the cause of death is 'Asphyxia due to strangulation'. She pointed out the statement of Rahul Ashok Hire dated 31st January 2022 (page-30) on the basis of which, F.I.R. has been lodged. She also pointed out the statement of Arun Yashwant Sonawane (page-69) and submitted that the said statement clearly shows that both the Accused were assaulting their mother as both of them were habitual alcoholics and they wanted money for purchase of liquor. She therefore submitted that the Bail Application be rejected. She submitted that there are no antecedents.

7. Perusal of the record shows that the incident in question took place on 30th January 2023, F.I.R. was lodged on 31st January 2023, the Applicant was arrested on 31st January 2023 and the Charge-sheet was filed on 24th April 2023. As per the Charge-sheet, there are 24 witnesses proposed to be examined by the prosecution. There is no progress in the trial and even the Charge is not framed. Accordingly, the trial will take considerable time to conclude. The case is of circumstantial evidence.
8. The Applicant does not appear to be at risk of flight.
9. The Applicant does not have any criminal antecedents.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
11. In view thereof, the following order:-

ORDER

- (a) The Applicant – Bhagwan Kisan Sonawane be released on bail in connection with C.R. No.28 of 2023 registered with the Chhavani Police Station, Malegaon, District - Nashik on his furnishing P. R. Bond of Rs.20,000/- with one or two local solvent sureties in the like amount.
- (b) 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.

(c) The Applicant shall report to the Chhavani Police Station, Malegaon, District-Nashik once every week on Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the prima facie observations made in this Order.

BHALCHANDRA
GOPAL
DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2024.08.28
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[MADHAV J. JAMDAR, J.]