

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

BAIL APPLICATION NO. 2931 OF 2024

Nikhil Chandrakant Kedari ...Applicant

Versus

The State of Maharashtra ...Respondent

Ms. Sana Raees Khan a/w Mr. Onkar Bajaj, for the Applicant.

Ms. R. V. Newton, APP, for the Respondent-State.

Adv. Kiran. V. Patil i/by Adv. Rajesh Patil, for the Intervenor (father of deceased)

PSI-Mahesh Dongare, Shikrapur Police Station.

CORAM: MADHAV J. JAMDAR, J.

DATED: 9 SEPTEMBER 2024

P.C.:

- 1.** Heard Ms. Sana Raees Khan, learned Counsel for the Applicant and Ms. 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.	174 of 2020
2	Date of registration of F.I.R.	24.03.2020
3	Name of Police Station	Shikrapur- Pune (Rural)
4	Section/s invoked	302, r/w. 34 of the I.P.C., 1860, 25(4) of Arms Act, 135/37 (1) of Bombay Police Act.
5	Date of incident	24.03.2020
6	Date of arrest	25.03.2020

- 3.** At the outset, Ms. Sana Khan learned Counsel appearing for the

Applicant states that she is not making submissions on merits and only on the ground of long incarceration the Applicant is seeking bail. She submitted that the Applicant is arrested on 25.03.2020 and till date there is no progress in the trial and even the charge is also not framed. She therefore submitted that although the Applicant has completed incarceration of 4 years and 6 months there is no likelihood of completion of the trial in short time.

4. On the other hand Ms. Newton, learned APP for the Respondent-State and Mr. Kiran Patil, learned counsel appearing for the father of the deceased strongly opposed the bail application. Both of them submitted that there is an eye witness to the incident and therefore bail application be rejected.

5. Ms. Newton, learned APP pointed out the detailed affidavit dated 29.08.2022 of Somnath Jaywant Kachare, PSI, presently attached to Shikrapur Police Station. She submitted that there is one antecedent i.e. C.R. No. 2 of 2017 registered with Shikrapur Police Station, Pune (Rural). She therefore submitted that the Bail Application be rejected.

6. Mr. Patil, learned Counsel appearing for the Intervenor-father of deceased pointed out the Order dated 22.05.2024, passed by learned Additional Sessions Judge, Pune below exhibit 66 in Sessions Case. No. 407 of 2020, by which the second bail application filed before the learned Trial Court by the Applicant was rejected. He submitted that for

the purpose of expeditious disposal of the trial, the learned Trial Court has directed the accused who are on bail to remain present on the next date and on each and every date in the future without fail. He submitted that jail authority has been directed to produce the Applicant on the next date without fail. He therefore submitted that as effective steps are being taken for expeditious disposal of the Sessions case, the Bail Application be rejected.

7. The prosecution case is set out in paragraph No. 4 of the Order dated 22.05.2024 passed by learned Additional Sessions Judge, Pune.

The said paragraph no. 4 reads as under:-

"4] On having heard both the sides and after having gone through the record, it appears that the prosecution has come up with a case that on 24.03.2020, Hari Shivle, who is the informant, deceased Swaraj Bhoskar and their other friends had been there for swimming in a well in the field of one Jalindar Bhandare. While they were swimming, the present accused Nikhil and co-accused Atul went there by a Swift car. They called the informant Hari and deceased Swaraj in the said Swift car. The present accused Nikhil was on the driver seat. Swaraj sat on front passenger seat. The co-accused Atul sat behind him i.e. towards left side on the rear seat and the informant Hari sat the other end on the rear seat. Nikhil pretended to show his mobile phone to the deceased Swaraj. When deceased Swaraj was looking into the mobile phone, co-accused Atul held his both the hands tightly from behind. The present accused Nikhil stabbed the deceased Swaraj on his stomach with a knife he was having with him. Somehow, deceased Swaraj and informant Hari tried to escape from the said car. Nevertheless, the present accused Nikhil stabbed Swaraj on his back with the same knife. Swaraj sustained bleeding injuries. Both the accused fled away from the spot."

8. The learned Additional Sessions Judge, Pune while rejecting the

second bail application *inter alia* has held that in broad day light and the presence of number of eye witnesses the Applicant has assaulted the deceased with a knife which has resulted into the death of the deceased. In any case it is required to be noted that Ms. Khan, learned counsel appearing for the Applicant has at the outset stated that she has instructions to argue only on the ground of long incarceration and the Applicant is not seeking bail on merits.

9. Perusal of the record shows that the incident in question took place on 24.03.2020, the FIR was registered on 24.03.2020 and the applicant is arrested on 25.03.2020. As per the prosecution case the prosecution is proposed to examine about the 32 witnesses till date there is no progress in trial.

10. 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 Accused.¹ Therefore, the Applicant is entitled for bail.

11. Although there is one antecedents i.e. of CR. No. 2 of 2017 registered with Shikrapur Police Station Pune (Rural), the same is under Section 341,323,504,506 r/w. 34 of Indian Penal Code, 1860. All these offences are bailable offences and the Applicant has been released on

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

bail by Order dated 14.11.2017 passed by the learned J.M.F.C., Shikrapur in said case.

12. Ms. Sana Raees Khan, learned Counsel appearing for the Applicant states that as several witnesses are from District- Pune, the Applicant will therefore not reside within District- Pune and that the Applicant will reside at Village - Aadhalgaon, Taluka – Shrigonda, District - Ahmednagar.

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

14. Accordingly, the Applicant can be enlarged on bail by imposing strict conditions.

15. In view thereof, the following order:-

ORDER

- (a) The Applicant - Nikhil Chandrakant Kedari be released on bail in connection with C.R. No.174 of 2020 registered with the Shikrapur- Pune (Rural) Police Station, District - Pune on his furnishing P.R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the Pune District 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 Shrigonda Police Station,

Taluka - Shrigonda, District - Ahmednagar once in a week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial. The Police Inspector of Shrigonda Police Station, District – Ahmednagar 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.

16. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]