

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3539 OF 2024

Subhash Mesu Sansare	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
INTERIM APPLICATION NO.3943 OF 2024

Sanjay Gangadhar Gunjal & Ors.	...Applicants
<u>IN THE MATTER BETWEEN:</u>	
Subhash Mesu Sansare	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Aniket Vagal a/w. Mr. Kunal Pednekar, Advocates, for the Applicant.
Mr. Vaibhav D. Kadam a/w. Mr. Shrinath Badade and Ms. Shweta Jadhav, Advocates, for the Applicants/Intervenors in IA/3943/2024.
Ms. Poonam P. Bhosale, APP, for the Respondent-State.
Mr. B. B. Narhe, PSI attached to Chandwad Police Station, Nashik, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 27th NOVEMBER 2024

PC:-

1. Heard Mr. Vagal, learned Counsel for the Applicant, Mr. Kadam, learned Counsel appearing for the Intervenors and Ms. Bhosale, learned APP appearing for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The Applicant is Accused No.1. The relevant details are as follows:

1.	C. R. No.	374 of 2022
2.	Date of registration of F.I.R.	12/10/2022
3.	Name of Police Station	Chandwad, District-Nashik
4.	Section/s invoked	302, 307 & 120-B of the I.P.C., 1860
5.	Date of incident	11/10/2022
6.	Date of arrest	14/10/2022
7.	Date of filing of Charge-sheet	10/01/2023

3. The Applicant is Accused No.1. As per the prosecution case, the Applicant was in a relationship outside of marriage with Accused No.3-Manisha Sopan Zalte i.e. wife of the deceased. It is the case of the prosecution that Accused Nos. 1 to 3 committed murder of the deceased as the deceased was objecting to and opposing the said relationship between the Applicant and Accused No.3.

4. It is the contention of Mr. Vagal, learned Counsel for the Applicant that there are total three Accused, except the Applicant

all the Accused have been released on bail by this Court. He submitted that the Applicant is incarcerated for more than 2 years and there is no progress in the trial except framing of the charge on 25th May 2023 and although one year and six months have been passed after framing of the charge, not a single witness has been examined. He submits that as per the prosecution there are total 27 witnesses proposed to be examined by the prosecution and therefore, the trial will take considerable time to conclude. He submitted that as per the prosecution case, although there was one eye-witness i.e. the injured-Baburao Mahadu Zalte, however, he passed away on 16th August 2024. Thus, the case is of circumstantial evidence. He therefore, submitted that the Applicant be released on bail.

5. On the other hand, Ms. Bhosale, learned APP appearing for the Respondent-State and Mr. Vaibhav Kadam, learned Counsel appearing for the Intervenors, who are the villagers of Village - Katarwadi, Taluka-Chandwad, District- Nashik strongly opposed the Bail Application. Both of them submit that the case is not of circumstantial evidence, as sought to be contended by the Applicant. They submit that as father of the deceased was injured

in the incident in question and merely he passed away on 16th August 2024, the case will not become case of circumstantial evidence. In any case, both of them submitted that there are incriminating circumstances against the Applicant. They submitted that the crime is committed with premeditation and therefore, no case is made out for grant of bail.

6. Mr. Kadam, learned Counsel appearing for the Intervenors submitted that the Applicant is hardened criminal and there is crime registered against him bearing C.R. No.30 of 2016 with Chandwad Police Station under Section 143, 144, 147, 354, 447, 427, 504, 506 of the Indian Penal Code, 1860. It is the contention of Mr. Kadam, learned Counsel appearing for the Intervenors that the Applicant is hardened criminal and he had filed false atrocity case against many villagers including the deceased. He therefore, submitted that the Bail Application be rejected.

7. As far as the antecedent is concerned, it is the contention of Mr. Vagal, learned Counsel appearing for the Applicant that said case is filed against 14 persons and it is of the year 2016 and that the Applicant has been already released on bail in that case.

8. Perusal of the record shows that the incident in question took place on 11th October 2022. The Applicant was arrested on 14th October 2022. It is an admitted position that investigation has been completed and Charge-sheet has been filed on 10th January 2023. As per the Charge-sheet, there are a total of 27 witnesses proposed to be examined by the prosecution. The Applicant is incarcerated for more than 2 years. Although the charge is framed on 25th May 2023, after a period of one year and six months, not a single witness has been examined. The trial is likely to take a considerably long time.

9. *Prima facie*, there is substance in the contention raised by Ms. Bhosale, learned APP and Mr. Kadam, learned Counsel appearing for the Intervenors that the Applicant along with co-Accused have entered into a conspiracy to kill the deceased as the Applicant was in a relationship outside of marriage with Accused No.3 and the deceased was objecting to the said relationship. In fact the position on record also shows that to mislead the investigation the Accused No.3 has filed false F.I.R..

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. However, as noted herein above, the Applicant is incarcerated for more than 2 years. There is no progress in the trial. Accordingly, case is made out for grant of bail as the Applicant’s right of speedy trial is violated. However, it is required to be noted that most of the witnesses are from said village-Katarwadi, Tal. Chandwad, Dist. Nashik. Mr. Vagal, learned Counsel appearing for the Applicant after taking instructions, state that the Applicant will stay at Indira Nagar No.1, Hanuman Chawl, J. N. Road, Mulund (West), Mumbai -400 080 and that the Applicant will attend the Mulund Police Station, Mumbai.

12. As there is one antecedent against the Applicant and as it is the contention of Mr. Kadam, learned Counsel appearing for the

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

Intervenors that the Applicant has filed false atrocity case against 14 villagers including the deceased it is necessary to impose stringent conditions while releasing the Applicant on bail.

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

14. In view thereof, the following order:-

ORDER

(a) The Applicant – Subhash Mesu Sansare be released on bail in connection with C.R. No.374 of 2022 registered with the Chandwad Police Station, Taluka - Chandwad, District - Nashik on his furnishing P.R. Bond of Rs.1,00,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter the District-Nashik 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 Mulund Police Station, Mumbai once every week, on every Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Mulund Police Station, Mumbai 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.

15. The Bail Application is disposed of accordingly.

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

17. In view of the disposal of the Bail Application, nothing survives in the Interim Application and the same is disposed of.

[MADHAV J. JAMDAR, J.]