

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3996 OF 2024

Prasad Gokul Sonawane	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Kunal N. Pednekar i/b. Mr. Aniket Vagal, Advocates, for the Applicant.
Mr. Y. M. Nakhwa, APP, for the Respondent-State.
Mr. Prakash S. Shinde, Deola Police Station, Nashik Rural, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 9th OCTOBER 2024

PC:-

1. Heard Mr. Pednekar, learned Counsel appearing for the Applicant and Mr. Nakhwa, learned APP appearing for the Respondent-State.

2. This is a second Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The first Bail Application has been allowed to be withdrawn by order dated 8th March 2024 passed in Bail Application No. 2678 of 2023 with liberty to file a fresh Bail Application after a period of six months. Accordingly, the present Bail Application is filed.

3. The relevant details are as follows:-

1.	C. R. No.	59 of 2022
2.	Date of registration of F.I.R.	11/02/2022
3.	Name of Police Station	Deola Police Station, Nashik.
4.	Section/s invoked	307 r/w. 34 of the Indian Penal Code, 1860
5.	Date of incident	11/02/2022
6.	Date of arrest	11/02/2022
7.	Date of filing of Charge-sheet	10/05/2022
8.	Offences as per the Charge-sheet	302, 307, 143, 147 & 149 of the Indian Penal Code, 1860

4. As per the prosecution case, there are total five accused involved in the crime. All these five accused are the members of the same family. The Accused No.1 is father of the Applicant, the Accused No.2 is the brother of the Applicant, the Accused No.4 is the sister of the Applicant and the Accused No.5 is the mother of the Applicant. All of them are incarcerated since 11th February 2022 i.e. on the date on which the incident in question took place.

5. As per the prosecution case, prior to the incident, the deceased was in a romantic relationship with the Accused No.4- Kalyani for about 7 years. However, the Accused No.1-Gokul

opposed the said relationship and therefore, four months prior to the incident in question the Accused No.4-Kalyani was not on talking terms with the deceased. The Accused No.1-Gokul was having suspicion that the deceased broke up Kalyani's marriage i.e. his daughter's marriage, therefore, the incident in question took place.

6. As per the prosecution case, the Accused No.2 assaulted the deceased on his head with an iron pipe and the present Applicant i.e. the Accused No.3 assaulted the deceased on his head with an iron rod. The Accused No.1-Gokul caught hold of the deceased, Accused No.5-Nirmal poured kerosene on the deceased and Accused No.4-Kalyani set the deceased on fire. As per the post-mortem report, deceased sustained 78% burns and opinion as to the probable cause of death as recorded in post-mortem report at page 115 is as follows:

**“DEATH IS DUE TO COMBINED EFFECT OF SHOCK
DUE TO BURNS WITH HEAD INJURY, WHICH ARE
SUFFICIENT TO CAUSED DEATH INDIVIDUALLY
AND COLLECTIVELY.**

**ALL INJURIES ARE ANTE MORTEM IN NATURE
AND FRESH IN DURATION.**

**BURN INJURIES ARE CAUSED BY FLAME BURNS
AND INJURIES NO.2 AND 3 MENTION IN COLUMN
NO.17 ARE CAUSED BY HARD AND HEAVY
OBJECT OR SURFACE.”**

7. Mr. Pednekar, learned Counsel appearing for the Applicant submitted that at the time of the incident the Applicant was only 18 years old . The Applicant and co-accused are incarcerated since 11th February 2022. He submitted that although charge has been framed on 29th August 2022, till date there is no further progress in the trial. As per the prosecution case, there are 26 witnesses proposed to be examined by the prosecution. Therefore, trial will take considerable time to conclude. He therefore, submitted that the Applicant is entitled to be released on bail on the ground of long incarceration.

8. On the other hand, Mr. Nakhwa, learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that there are eye-witnesses to the incident. He pointed out the statement of Sandeep Kashinath Bacchav recorded on 15th February 2022 (Page 152 to 153). He submitted that there are other eye-witnesses to the incident. He pointed out the post-mortem report and submitted that the deceased had sustained 78%

burns. He submitted that the cause of death is combined effect of shock due to burns with head injury. He submitted that the present Applicant had assaulted the deceased on head and therefore, his role is significant in the incident in question. He therefore, submitted that the Bail Application be rejected. On instructions, he submitted that there are no criminal antecedents against the Applicant.

9. Perusal of the record shows that the incident in question took place on 11th February 2022, the F.I.R. was lodged on 11th February 2022, the Applicant was arrested on 11th February 2022 and, Charge-sheet was filed on 10th May 2022. There is no progress in the trial except framing of the charge on 29th August 2022. For last about 2 years after framing of the charge, not a single witness has been examined. As per the Charge-sheet, there are 26 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

10. There are no criminal antecedents against the present Applicant and the Applicant is young man aged 20 years.

11. 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 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. Therefore, the Applicant is entitled for bail.

12. However, Mr. Nakhwa, learned APP submitted that there is an apprehension that if the Applicant if released on bail he will pressurize the witnesses and he will tamper with the evidence.

13. In view of the above apprehension, Mr. Pednekar, learned Counsel appearing for the Applicant states that the Applicant will therefore not reside within District – Nashik and that the Applicant will reside at C/o. Sandip Vishnu More [cousin brother of the Applicant], Dhongade, Bhalane, Tal. Sakri, Dhongade Digar, Dhule, Maharashtra 424 306.

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

14. The Applicant does not appear to be at risk of flight.
15. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
16. In view thereof, the following order:-

ORDER

- (a) The Applicant -Prasad Gokul Sonawane be released on bail in connection with C.R. No.59 of 2022 registered with the Deola Police Station, District – Nashik 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 Nashik 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 Pimpalner Police Station, Beed Road, District – Dhule 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 Pimpalner Police Station, District - Dhule 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.

17. The Bail Application is disposed of accordingly.

18. 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.]