

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.4337 OF 2024

Ganesh Suresh Kharat

...Applicant

Versus

The State of Maharashtra

...Respondent

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Ms. Sana Raees Khan a/w. Ms. Juhi Kadu, Advocate, for the Applicant.

Mr. C. D. Mali, APP, for the Respondent-State.

Mr. Umesh Rokde, API, Hadapsar Police Station, Pune, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 2nd DECEMBER 2024

PC:-

1. Heard Ms. Sana Khan, learned Counsel appearing for the Applicant and Mr. Mali, learned APP appearing for the Respondent-State.

2. This is a second regular Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973* with respect to C.R. No.338 of 2022 registered with Hadapsar Police Station, Pune. The relevant details are as follows:

1.	C. R. No.	338 of 2022
2.	Date of registration of	03/04/2022

	F.I.R.	
3.	Name of Police Station	Hadapsar, Pune.
4.	Section/s invoked	302, 506 of the Indian Penal Code, 1860; 25 of the Arms Act, 1959 and 135 of the Maharashtra Police Act, 1951.
5.	Date of incident	03/04/2022
6.	Date of arrest	04/04/2022
7.	Date of filing of Charge-sheet	30/06/2022

3. The Applicant has filed first Bail Application bearing Criminal Bail Application No.2296 of 2023 and the same has been allowed to be withdrawn by order dated 29th February 2024 with liberty to file fresh Bail Application after a period of six months.

4. By order dated 4th January 2023, learned Additional Sessions Judge, Pune passed below Exhibit-4 in Sessions Case No.751 of 2022 rejected the Bail Application of the Applicant. The prosecution case is set out in paragraph No.2 of the said order, which reads as under:

“2] The accused is chargesheeted for offence punishable under section 302, 506 of Indian Penal Code, section 4 read with 25 of Arms Act and section 37 read with 135 of Maharashtra Police Act.

It is alleged by prosecution that accused had taken Rs.20,000/- from Yuvaraj Baburao Jadhav as a hand loan. Yuvaraj was demanding said amount from the accused. On 03/04/2022 on 19:20 hours in front of residential house at Dhanaraj Dairy Papadevasti Fursungi, Pune. Yuvaraj was sitting on Bullet motorcycle. At that time accused had been to said spot from the backside of Yuvaraj and inflicted repeated blows of axe on the head, face, neck and mouth of Yuvaraj. Thereby accused intentionally killed Yuvaraj Jadhav. The father of the deceased lodged complaint on the same day. Accordingly, offence punishable under section 302, 506 of Indian Penal Code, section 4 read with 25 of the Arms Act and section 37 read with 135 of Maharashtra Police Act came to be registered against accused in Hadapsar Police Station vide CR No. 338/2022. Accused came to be arrested on 04/04/2022 at 10:00 hours. After investigation chargesheet is filed on 30/06/2022. The present application is filed by accused for bail. The same is opposed by Ld. APP by filing say below application and by the informant by filing say at Exh.6.”

5. It is the contention of Ms. Sana Khan, learned Counsel appearing for the Applicant that there are no criminal antecedents against the Applicant and there is no further progress in the trial after the said order dated 29th February 2024. She states that even charge has also not been framed. She further submits that trial will take considerable time to conclude.

6. On the other hand, Mr. Mali, learned APP for the Respondent-State strongly opposed the Bail Application. He points

out various averments made in the affidavit dated 27th November 2024 of Mr. Deepak Dinkar Barge, Assistant Police Inspector presently attached to Hadapsar Police Station, Pune. He states that there are various incriminating circumstances showing that the Applicant is involved in serious crime. He submits that in fact, the CCTV footage shows that the Applicant is involved in the crime and the Applicant has assaulted on the neck, face and head of the deceased by using axe. He therefore, submitted that the Bail Application be rejected. On instructions, he states that there are no criminal antecedents against the Applicant.

7. Perusal of the record shows that the incident in question occurred on 3rd April 2022, F.I.R. was lodged on 3rd April 2022, the Applicant was arrested on 4th April 2022 and the Charge-sheet was filed on 30th June 2022. Till date there is no progress in the trial and even the charge is also not framed yet. As per the Charge-sheet, there are 32 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.

8. 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.

9. There are no criminal antecedents against the present Applicant.

10. Ms. Sana Khan, learned Counsel appearing for the Applicant states that as several witnesses are from Pune District, the Applicant will therefore not reside within Pune District and that the Applicant will reside at C/o. Shubham Sunil Rithe, At-Rajale Gaon, Tal. Phaltan, Dist. Satara.

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

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

13. In view thereof, the following order:-

ORDER

- (a)** The Applicant -Ganesh Suresh Kharat be released on bail in connection with C.R. No.338 of 2022 registered with the Hadapsar Police Station, District - Pune on his furnishing PR. Bond of Rs.1,00,000/- 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 Phaltan City Police Station, District - Satara 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 Phaltan City Police Station, District - Satara 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.

14. The Bail Application is disposed of accordingly.

15. 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.]