

BHALCHANDRA
GOPAL DUSANE

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

BAIL APPLICATION NO.4354 OF 2024

Nitin Rambhau Nivangune	...Applicant
V/s.	
The State of Maharashtra	...Respondent

Mr. Abhishek K. Jha i/by Jha Legal Associates for Applicant.
Mr. C.D.Mali, APP for State.
PSI, Mr. Amit Deshmukh, Velha Police Station (Pune Rural).

CORAM : MADHAV J. JAMDAR, J.
DATE : 4th December 2024

PC. :

1. Heard Mr. Jha, learned Counsel appearing for the Applicant and Mr. Mali, the learned APP.
2. It is the submission of Mr. Jha, learned Counsel appearing for the Applicant that the Applicant is seeking bail mainly on the medical ground. As far as merits are concerned, it is his submission that the case is of circumstantial evidence. He submits that there are total 64 witnesses proposed to be examined by the prosecution and therefore the trial will take considerable time to conclude.
3. On the other hand, Mr. Mali, learned APP strongly opposed the Bail Application. He relies on Affidavit dated 27th November 2024 of Mr. Nitin Hanumant Khamgal, Assistant Police Inspector, presently

attached to Velhe Police Station, (Pune Rural), District-Pune. He submits that although the case is of circumstantial evidence, there are incriminating circumstances against the present Applicant including CCTV footage, which shows that the Applicant was last seen together with the deceased. He submitted that the recovery of cash is at the instance of the present Applicant and recovery of the ornaments is at the instance of son of the present Applicant. He points out various statements of the witnesses including the statements of Mayuri Prafulla Kalokhe, Vivek Ulhas Kalokhe and other witnesses. He also pointed out the P.M. report and submitted that the material on record shows that the Applicant is involved in the crime and mercilessly assaulted the deceased. Learned APP after taking instructions states that there are no other antecedents.

4. Perusal of record shows that the present Applicant has filed application for grant of bail bearing Exhibit No.49 in Sessions Case No. 548 of 2023 before the learned Trial Court. The said application has been rejected by learned Additional Sessions Judge-14, Pune by Order dated 31st October 2023. The prosecution case is set out in paragraph No.7 of the said Order, which reads as under :

“Considering the submissions of both the sides, it transpires from the charge-sheet that deceased Vijay Prafulla Kalokhe had trust upon the accused No.1-Nitin, so deceased allegedly brought the gold & silver

ornaments/articles and cash amount to the house of accused No.1 and it created a greed to accused No.1. It further transpires that during the period from 13.1.2023 to 15.1.2023, the accused No.1-Nitin has assaulted with steel tongs on the head & mouth of deceased to grab the said ornaments/articles & cash amount and thereby he has committed his murder. It further transpires that in order to destroy the evidence related to the murder of deceased Vijay, the accused No.1 alongwith accused No. 3 have allegedly put the deadbody of deceased Vijay in a plastic barrel and carried away in a Innova Car of accused No.4 to Ambi Phata, Ranwadi and they buried it in field bearing Gat No.40 at Ranwadi of accused No.1-Nitin with the help of accused No.2.”

5. Perusal of the record and various circumstances, prima facie shows that the Applicant is involved in the crime. There are various incriminating circumstances against the Applicant and therefore the Applicant is not entitled to be released on bail.

6. However, it is required to be noted that the incident took place between 13th January 2023 to 15th January 2023. C.R. No.4 of 2023 has been registered with Velhe Police Station, Pune (Rural) on 18th January 2023. The present Applicant has been arrested on 18th January 2023. Admittedly, the Charge-sheet is filed on 17th April 2023. As per the Charge-sheet, the prosecution is proposed to examine about 64 witnesses. Till date, the Charge is not framed. Thus considerable time will be required for conclusion of the trial.

7. This Court by Order dated 1st February 2024 passed in Bail Application No. 3663 of 2023 has released the Applicant on bail on medical ground for a period upto 30th April 2024. Thereafter, again this Court by Order dated 25th April 2024 passed in Bail Application No. 1691 of 2024 granted temporary bail to the Applicant till 31st October 2024. In this Bail Application, the said protection is extended by Order dated 21st October 2024, 14th November 2024 and 25th November 2024. In the said earlier Orders dated 1st February 2024 and 25th April 2024., this Court has set out report dated 1st February 2024 of Professor and H.O.D, Department of Medicine, B.J. Government Medical College & Sasoon General Hospital, Pune. Paragraph 5 of the Order dated 1st February 2024 concerning said report reads as under :

“5. Professor & H.O.D, Department of Medicine, B.J. Government Medical College & Sasoon General Hospital, Pune has submitted report dated 1st February 2024, which reads as under:

“Prisoner- Nitin Rambhau Nivgune-no- 3296/24 Mle no.-2013, Mrd- I/2/6469 was admitted under Dr. H.B. Prasad sir unit on 30/01/24 in ward 16 with complaints of tingling and numbness of left upper limb and lower limb. He is a known diabetic and hypertensive on treatment. On evaluation he was uncontrolled blood sugars and left hemiparesis and CT brain is suggestive of right subinsular cortex infarct. At

present patient is hemodynamically stable and conscious and oriented with mild weakness on left side. Patient is on antiplatelet and anti hypertensive medications, injection- insulin and supportive treatment.”

8. To this Bail Application, report dated 8th December 2024 of Mr. Savant Clinic is annexed, which reads as under:

“Distal 2/3 IVS and apical wall hypokinesia with preserved thickness

Moderately depressed LV systolic function, LVEF-40%

Type ILV diastolic dysfunction

No AS/AR, no MR,

No tricuspid regurgitation, No PH, RVSP-20 mmHg

No clot, vegetations, pericardial effusion

Normal size IVC & collapsible

Intact IAS & IVS

IMPRESSION: POST PTCA STATUS

Moderately depressed LV systolic function

Mild LV diastolic dysfunction

No PH”

9. Thus, although no case is made out for granting bail on merits, as considerable time will be required for conclusion of the trial and due to health condition of the Applicant, the Applicant is granted bail by imposing following conditions.

ORDER

(a) The Applicant – Nitin Rambhau Nivangune be released on bail in connection with C.R. No.4 of 2023 registered

with the Velhe Police Station, Pune (Rural), District-Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two 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 Velhe Police Station, Pune (Rural), District-Pune as and when called by Police.

(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 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.

10. The Bail Application is disposed of accordingly.

11. 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.)