

Nikita

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

BAIL APPLICATION NO.4979 OF 2024

Allauddin Mahbubsab Babarchi ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Satyavrat Joshi a/w Mr. Ishan Paradkar for the
Applicant.

Mr. P. H. Gaikwad, APP for the State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 6th AUGUST, 2025

P.C.:

1. Heard Mr. Satyavrat Joshi, learned Advocate for the Applicant and Mr. P. H. Gaikwad, learned APP for the State.
2. By the present application, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, Applicant is seeking bail in connection with C. R. No.66 of 2024 registered with Kavathe Mahakal Police Station, Sangli, for the offences punishable under Sections 302, 201, 109 and 120(b) read with 34 of the Indian Penal Code, 1860. Said crime is registered as Sessions Case No.100 of 2024 and is pending before the Court of Additional Sessions Judge-3, Sangli.
3. There are four Accused in the present crime. Applicant is Accused No.4.
4. Case of the prosecution is that Accused No.1 (Mohammad Rafeek) was having relationship with Bibiamina Mohammadsharif,

wife of the Mohammadsharif Gawar (deceased). Conspiracy was hatched by Accused No.1 along with other three Accused to eliminate the deceased. Deceased, at the instance of Accused No.1 and others was taken in a car driven by the Applicant. Deceased who was sitting on the rear seat of the car driven by the Applicant. Deceased was stabbed to death by the Accused Nos. 2 and 3 while he was on the rear seat, weapon used was a knife. After committing the murder of deceased, his body was burned by the use of diesel and thrown in a secluded place by the Accused in the crime.

5. Applicant was arrested on 16.02.2024, since then, the Applicant is in jail. Bail Application at Exhibit-8 filed by the Applicant along with Accused No.2 in Sessions Case No.100 of 2024 was dismissed by the Additional Sessions Judge-3, Sangli by its order dated 05.10.2024.

6. Mr. Satyavrat Joshi, learned Advocate for the Applicant submits that the involvement of the Applicant in the present crime is of traveling in a car together with the co-accused and deceased. He submits that there are no allegations made against the Applicant of the Applicant having assaulted deceased. He submits that the involvement of the Applicant in the crime is at the most of the destruction of evidence i.e. assisting the co-accused in pouring diesel, setting the body on fire and thereafter disposing off the same. He submits that the Applicant at the most can be said to have committed offence under Section 201 of the IPC, which is bailable offence. He submits that though there is an extra judicial confession made by the Accused No.1 to his uncle, the same is

weak piece of evidence.

7. Mr. P. H. Gaikwad, learned APP for the State, submits that the subject matter of the C.R. No.66 of 2024 is a well planned and intended murder carried out by all the Accused to eliminate the deceased, motive for the same being the relation of Accused No.1 with the wife of deceased. He submits that the Accused had the common intention of eliminating the deceased, which stands proved from the material on record viz the deceased being taken in a car, thereafter fed at a hotel and thereafter stabbed to death in the car which was driven by the Applicant. He submits that the Applicant was well aware of the plan to eliminate the deceased. He submits that the presence of the Applicant in the car while the deceased was being stabbed itself shows the intention of the Applicant being common with the other Accused. He submits that after committing murder of the deceased, the Accused which includes the Applicant with intentions to destroy the evidence, shifted the deceased from the rear seat to the boot of the car and thereafter attempted to destroy the evidence by setting the body of the deceased on fire. He submits that the wife of the deceased has categorically named the Accused persons and has referred to the manner in which the deceased was taken by the Accused with them. He submits that Accused No.2 has made extra judicial confession to three persons, whose statements are also recorded. He submits that the CCTV footage and the CDR records of the Accused show the presence of the Applicant in the area wherein the where the crime was committed. He therefore opposes the bail.

8. I have perused the record with the assistance of learned

Advocates for the parties.

9. Charge-sheet reveals that Bibiamina Mohammadsharif, wife of the deceased, has disclosed the motive and the intention, the Applicant and the co-Accused had for eliminating deceased. CCTV footage and the CDR referred to above by Mr. P. H. Gaikwad, reveals the presence of the Applicant along with the deceased during the time of the incident. Applicant was present in the car, wherein the murder of deceased was committed i.e. on the rear seat of the car with the use of the knife. After the commission of the murder, Applicant who is the driver of the car, along with the co-accused has actively participated in the destruction of the body of the deceased. Involvement of the Applicant and his active role in attempting to cause destruction, of the evidence, supports the prosecution case.

10. Charge-sheet and various statements of the witnesses therein, *prima facie* show clinching material about complicity of the Applicant in the alleged crime. Allegations against the Applicant and his associates are serious in nature and in respect of heinous offence.

11. In view of the above, this is not a fit case for grant of bail.

12. Bail Application No.4979 of 2024 is dismissed.

13. Observations made in this order are made for the limited purpose of this application and shall not affect the merits of the case at the stage of trial.

(ASHWIN D. BHOBE. J.)