

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 505 OF 2024**

Vikas Sudam Aher ...Applicant
Versus
1. The State of Maharashtra
2. Nikhil Sandip Jadhav ...Respondents

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Mr. Pratik Kalantri, Advocate for the Applicant.

Ms. Anamika Malhotra, A.P.P. for the Respondent No.1 – State.

Mr. Kuldeep Nikam, Advocate for the Respondent No.2.

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**CORAM : N. R. BORKAR, J.
DATE : 4th APRIL, 2025**

P.C.:

1. The applicant being aggrieved by the order passed by the Sessions Court, Yeola, Nashik dated 24/09/2024 below Exhibit-24 in Sessions Case No.229 of 2023, whereby the Sessions Court has granted bail to the respondent No.2 herein in crime No.463 of 2024 registered at Yevala Taluka Police Station, District : Nashik (Rural) for the offences punishable under Sections 307, 342, 323, 504, 506 r/w Section 34 of the Indian Penal Code has filed the present application seeking cancellation of said bail.

2. I have heard the learned counsel for the applicant and learned A.P.P. for the Respondent No.1-State.

3. The deceased was having a love affair with the daughter of accused No.1. The Respondent No.2 is accused No.2. It is alleged that the Respondent No.2 and other co-accused were thus annoyed with the deceased and thus on the date of incident which took place on 19.08.2023, they committed the murder of the deceased.

4. The learned counsel for the applicant submits that the Sessions Court has granted bail to the Respondent No.2 on the basis of the order passed by this Court dated 31.07.2024 in Bail Application No. 1548 of 2024, by which this Court has granted bail to co-accused Sunil Jadhav. The learned counsel for the applicant submits that the order passed by this Court granting bail to co-accused Sunil Jadhav was challenged before the Hon'ble Supreme Court and though the Hon'ble Supreme Court has refused to interfere with the order passed by this Court, however, at the same time the Hon'ble Supreme Court has observed that the order passed by this Court shall not be relied upon or cited as a precedent for the purpose of granting bail or conducting trial in respect of other accused. It is submitted that the order passed by the Sessions Court therefore cannot be allowed to stand.

5. On the other hand, the learned counsel for the Respondent No.2 submits that the order of the Hon'ble Supreme Court is subsequent to the order passed by the Sessions Court granting bail to the Respondent No.2. It is further submitted that the Sessions Court has also considered other aspects while granting bail to Respondent No.2.

6. I have perused the order passed by the Sessions Court. By order dated 22.04.2024, the earlier bail application filed by the Respondent No.2 was rejected on merit. The Sessions Court has entertained the subsequent bail application filed by the Respondent No.2, in view of the order passed by this Court dated 31.07.2024 in Bail Application No.1548 of 2024.

7. The Hon'ble Supreme Court has observed that the order passed by this Court shall not be relied upon for the purpose of granting bail to other accused. The order dated 04.02.2025 passed by the Hon'ble Supreme Court in Petition for Special Leave to Appeal (Crl.) No.18049/2024 reads thus:

- “1. Heard learned counsel for the parties.
2. We are not inclined to interfere with the impugned order passed by the High Court. However, it is observed that if the respondent – accused does not cooperate

with the Trial Court in proceeding further with the trial, the petitioner/prosecution will be at liberty to file appropriate application seeking cancellation of the bail.

3. It is further clarified that the observations made by the High Court in the impugned order shall not be relied upon or cited as a precedent for the purpose of granting bail or conducting trial in respect of other accused.

4. The Trial Court shall proceed with the trial as expeditiously as possible and in accordance with law.

5. Subject to the above, the Special Leave Petition is not entertained and disposed of.

6. Pending applications, if any, shall stand disposed of.”

8. Considering the overall facts and circumstances, the order passed by the Sessions Court dated 24.09.2024 cannot be allowed to stand and the same is set aside.

9. The Sessions Court shall decide the application filed by the Respondent No.2 at Exhibit-24 afresh.

10. Till the decision of the application at Exhibit-24, the Respondent No.2 shall not be taken into custody.

11. The Sessions Court shall decide the application on its own merits without being influenced by the earlier orders.

12. Criminal Application is disposed of in above terms.

(N. R. BORKAR, J.)