

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1007 OF 2024

Subhash Baburao Surve Applicant

V/s.

State of Maharashtra Respondent

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KAMBLE

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Mr.Vikrant V. Phatate a/w Mr.Mahesh S. Arjun and Ms.Rupali C.
Kamble, for the Applicant.

Ms.S.D. Shinde, APP, for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th FEBRUARY 2025

P.C:-

1. By this Application, the Applicant is seeking regular bail in Crime No.240 of 2021 registered with Naupada Police Station, Thane, for the offence punishable under Sections 363, 364, 394, 302, 216(A), 201, 457, 380 read with Section 34 of the Indian Penal Code, 1908 ('IPC' for short), under Sections 3(1) and 25 of the Arms Act and Section 37(1) and 135 of the Maharashtra Police Act.

2. It is prosecution's case that, on 14th August 2021 at about 10.00 a.m., deceased was kidnapped by the Applicant and

co-accused and he was murdered in moving car. It is alleged that, the car in which the deceased was murdered belongs to the Applicant and the Applicant was part of the conspiracy.

3. It is contention of the learned counsel for the Applicant that, the Applicant had business of renting car. The co-accused had called the Applicant to give car on rent. Accordingly, the Applicant had gone with the co-accused on rent basis. All the allegations are against the co-accused. The recovery is at the instance of the co-accused. Nothing is recovered at the instance of the Applicant, except car. The Applicant is behind bar more than three years. Yet trial has not commenced. Hence, requested to allow the Application.

4. It is contention of the learned APP that, the Applicant had conspiracy with co-accused to kill the deceased. Accordingly, the Applicant had gone with the co-accused and kidnapped the deceased in his car and murdered the deceased in moving car. The Applicant could have stopped the vehicle, if he was not part of the conspiracy and informed the police about the

incident, but he did not do that, it shows involvement of the Applicant in the crime.

5. The learned APP further submitted that, the CDR produced on record shows that, the Applicant had called the co-accused before the incident, it shows involvement of the Applicant in the crime. The CCTV footage shows car of the Applicant alongwith deceased and co-accused. If Applicant released on bail he may abscond. Hence, requested to reject the Application.

6. I have heard both learned counsel. Perused charge-sheet.

7. The allegations against the Applicant are that, in his car deceased was kidnapped from his shop and murdered. He has in conspiracy with the co-accused in the said crime.

8. It is contention of the learned counsel for the Applicant that, the Applicant had given his car on rent basis as a part of the business. The CDR produced on record shows that, the Applicant had several calls with the co-accused. It appears from record that, co-accused had called the Applicant to give his

car on rent, which Applicant denied. Thereafter, co-accused agreed to pay fare. The main Allegations are against the co-accused the recovery of the articles used in the crime is at the instance of the co-accused. If the Applicant was part of the conspiracy and he had participated in the murder is part of the trial. He is behind bar more than 3 years. It may take time to conclude the trial.

9. Considering these facts, his further detention is not required and I pass following order.

ORDER

(i) The Applicant-Subhash Baburao Surve be released on bail in Crime No.240 of 2021 registered with Naupada Police Station, Thane on furnishing PR bond of Rs.30,000/- with one or two solvent sureties in the like amount.

(ii) The Applicant shall attend the court dates regularly.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)