

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1379 OF 2024

Amil Prahlad Nagare ... Applicant
V/s.
The State of Maharashtra ... Respondent

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Mr. Sandeep R. Karnik for the applicant (through Legal Aid).

Mrs. Shilpa G. Talhar, APP for the respondent-State.

Mr. Niteen Belge, PSI, Shil Daighar Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 30, 2025

P.C.:

1. By this bail application preferred under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant seeks his release on regular bail in connection with Crime Register No. 420 of 2019 registered with Shil-Daighar Police Station for offences punishable under Sections 302, 201, 120-B, 506(ii) read with 34 of the Indian Penal Code, 1860 (for short "IPC"), and under Section 37(1) read with Section 135 of the Bombay Police Act.

2. As per the prosecution story, on 15th November 2019 at around 9:45 a.m., one Raghunath Namdeo Kambdi, neighbour of the applicant, received information from 3-4 labourers known to

him that a dead body of an unknown person was lying near Vijay Stone Quarry, at the foot of the hill, beside the road. The said informant visited the spot and saw the body, which was beheaded, of a male aged around 40 to 45 years. He made efforts to trace the relatives of the deceased in the nearby area and also informed the police. Upon arrival, the police were shown the dead body. Based on the statements of two eye-witnesses, it is alleged that the present applicant, along with other co-accused persons, offered excessive liquor to the deceased and thereafter assaulted him, resulting in his death.

3. Learned Advocate appearing on behalf of the applicant, who has been appointed through legal aid, submitted that the applicant has been in custody since 17th November 2019. It is pointed out that the prosecution has cited a total of 44 witnesses, out of which only 14 have been examined so far. It is further submitted that both the eye-witnesses, who are material witnesses to the occurrence, have already been examined before the Trial Court. Therefore, it is argued that the possibility of tampering with the said crucial witnesses does not survive. Considering the prolonged incarceration and in view of the fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution of India, the applicant deserves to be released on regular bail.

4. On the other hand, the learned APP opposing the bail application submitted that although the prosecution has cited 44 witnesses, there is a likelihood that the number of witnesses to be actually examined may be reduced during the course of trial. It is, however, not disputed that both the eye-witnesses have already

been examined. The learned APP further pointed out that the Public Prosecutor before the Trial Court has moved an application seeking transfer of the case to the Court of the learned Principal District Judge, and hence, it is expected that the trial would be expedited. Therefore, she urged that in view of the seriousness of the offence and the fact that trial is likely to conclude in near future, the present application may not be entertained and be rejected.

5. I have carefully considered the submissions advanced by the learned Advocate for the applicant and the learned APP for the State. I have also perused the material placed on record.

6. It is not in dispute that the applicant has been in custody since 17th November 2019, and as on date, he has undergone incarceration of more than five and a half years. The chargesheet has already been filed and the trial has commenced.

7. From the record, it appears that the prosecution has cited 44 witnesses, out of which only 14 witnesses have been examined so far. Importantly, the eye-witnesses, on whose statements the prosecution case mainly rests, have already been examined. There is no material placed on record to show that the applicant has tried to threaten, influence or tamper with any of the witnesses during the trial.

8. The learned APP fairly submitted that though all 44 witnesses may not be examined, and the trial may now proceed at a faster pace, there is no definite timeline given for conclusion of trial. The pendency of an application for transfer of trial

proceedings, in the opinion of this Court, would only lead to further delay, and cannot be a ground to indefinitely detain the applicant in custody.

9. The offence alleged is undoubtedly serious and grave in nature. However, the seriousness of the offence alone cannot override the fundamental right of the applicant under Article 21 of the Constitution of India, which guarantees protection of life and personal liberty, including the right to speedy trial. Prolonged pre-trial incarceration without progress in the trial proceedings, especially when material witnesses have been examined, amounts to denial of the said constitutional guarantee.

10. It is also pertinent to note that the applicant does not have any serious antecedents reported against him and there is no record of misuse of liberty during his previous custody or while in judicial custody.

11. Considering the totality of facts and circumstances, particularly the long period of incarceration, the examination of material witnesses, and the right to speedy trial, I am of the considered opinion that further detention of the applicant is not warranted. Appropriate conditions can be imposed to ensure his availability during the trial and to prevent any misuse of liberty.

12. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.420 of 2019

registered with Shil-Daighar Police Station for offences punishable under Sections 302, 201, 120(b), 506(ii), and 34 of the Indian Penal Code, 1860 (“IPC” for short) and under Section 37(1), and 135 of the Bombay Police Act, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- (a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
- (b) The applicant shall report to the Shil-Daighar Police Station twice a month, specifically on the 1st and 15th day of each month, between 10:00 a.m. and 12:00 noon, until further orders.
- (c) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.
- (d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.
- (e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

13. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)