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

BAIL APPLICATION NO.2449 OF 2024

Mohammad Kaif Khan	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Amin Solkar with Ms. Misbah Solkar & Ms. Sejal Jain for the applicant.

Mr. Kaushik Mhatre, Special P.P. with Mrs. Megha S. Bajoria, APP for the respondent-State.

CORAM : AMIT BORKAR, J.

DATED : JULY 15, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 385 of 2023, registered at Govandi Police Station, Mumbai, for offences punishable under Sections 302, 201, 120B, and 34 of the Indian Penal Code, 1860, and also under Section 4 read with Section 25 of the Indian Arms Act.

2. The brief facts of the prosecution case are that on 14th October 2023, at around 4:45 PM, one Suraj Sunil Mhatre informed the police that while he and his friend were swimming in a well located near the Telecom Factory Colony, Bhutbawadi, Mankhurd, they noticed a human body floating in the well. The

fire brigade was called, and upon removal of the body, police noticed deep wounds on the neck of the deceased. The body was immediately taken to Rajawadi Hospital, where the person was declared dead. Since the identity and cause of death were initially unknown, an Accidental Death Report No. 63 of 2023 was registered under Section 174 of Cr.PC., and Inquest Panchnama was conducted. During the panchnama, injuries on the neck and abdomen were noted.

3. It is further alleged that during the Spot Panchnama conducted on 15th October 2023, the police recovered a wallet containing an Aadhaar Card in the name of one Karan Ramesh Chandra. Later, one Pradip Ramchandra identified the deceased as his brother Karan Ramchandra Chaurasia, and informed the police that Karan had come to Mumbai along with his wife Gulnaaz on 11th October 2023. As per the Post-Mortem Report, the cause of death was hemorrhagic shock due to a cut-throat injury. Based on this, an FIR dated 16th October 2023 was lodged against unknown persons.

4. During further investigation on 16th October 2023, two accused persons – Gora Khan (Accused No.1) and Salman Khan (Accused No.2) – were arrested. It is alleged that during their custodial interrogation, Accused No.1 Gora Khan disclosed the location where the dead body of Gulnaaz Khan, the wife of deceased Karan, was concealed, and based on this information, the body of Gulnaaz was recovered.

5. Learned Advocate for Accused No.3 (Applicant) submits that the entire case of the prosecution is based on circumstantial evidence. It is argued that the role attributed to the present applicant is only in connection with the alleged murder of Karan, and there is no allegation against him in respect of the murder of Gulnaaz. The incident allegedly occurred on 13th October 2023, while the dead body was found on 14th October 2023, and the FIR was lodged on 16th October 2023, indicating a delay.

6. It is further submitted that the two alleged recoveries from Accused No.3 do not conclusively establish his involvement. One recovery is of the mobile phone, Bluetooth device, and five finger rings belonging to the deceased, allegedly recovered from persons to whom Accused No.3 sold these items. The second recovery is of a place where rope used to tie the deceased's legs was allegedly taken from. However, the defence submits that there was no concealment, and thus such recoveries lack evidentiary value. The CCTV footage and screenshots produced by the prosecution do not clearly show the presence of the applicant at the scene of crime. There is a time gap of about one hour between the presence of the applicant and the co-accused near Govandi Railway Station, which is across the railway track from the spot of the incident.

7. It is also pointed out that the DNA report of the articles recovered from Accused No.3 does not match the DNA of the deceased, whereas the same articles match with the DNA of co-accused persons. It is argued that even if all the material in the charge sheet is taken at face value, there is no complete chain of circumstances pointing only towards the guilt of the applicant, and

hence the applicant cannot be said to be a conspirator. The applicant is a resident of Uttar Pradesh, who came to Mumbai for livelihood, and is not connected with the other accused. He is willing to comply with any condition the Court may impose, and therefore, the applicant seeks bail.

8. On the other hand, the learned Special Public Prosecutor (SPP) opposed the bail application, stating that Accused No.3 had special knowledge of facts relating to the murder, and the same is relevant under Section 27 of the Indian Evidence Act. It is argued that the applicant must explain how he came to possess the articles belonging to the deceased, such as rings, mobile phone, Bluetooth device, slippers, and rope. The prosecution asserts that there was a strong motive among all the accused to eliminate both the deceased persons. The CCTV footage allegedly shows the presence of Accused No.3, other co-accused and a child in conflict with law (CCL) together in the same locality prior to the incident.

9. The SPP further relied on recovery of blood-stained slippers, finger rings, mobile phone, Bluetooth device, and nylon rope from the applicant, which, according to the prosecution, shows his active involvement. Considering the grave and serious nature of the crime, the SPP contends that the applicant is not entitled to bail at this stage. In support of the argument that such “honour killing” offences must be viewed seriously, the learned SPP placed reliance on the following judgments of the Supreme Court: *Rama Devi Nayar vs. State of Rajasthan*, Criminal Appeal No. 780 of 2018, and *Rohit Bisnoi vs. State of Rajasthan*, Criminal Appeal No. 2078 of 2023, where the Supreme Court has underlined the need

to deal with such cases with stern hands and to discourage feudal mindsets in the society. Accordingly, the learned SPP prays for rejection of the bail application.

10. I have carefully considered the submissions advanced on behalf of the applicant and the prosecution, perused the case diary, charge sheet, and other material placed on record. The offence is no doubt serious in nature, involving charge under Section 302 of IPC, and two persons have lost their lives in a gruesome manner. However, at the stage of considering bail, this Court is not expected to enter into a mini-trial, but to examine whether, prima facie, the material on record discloses the applicant's direct involvement and whether the custodial detention of the applicant is warranted.

11. From the material placed on record, it appears that the entire case against the present applicant (Accused No.3) is based on circumstantial evidence. There is no eyewitness account, nor is there any CCTV footage showing the actual commission of the offence by the applicant. The CCTV screenshots, as produced, at best show the applicant near Govandi Railway Station, which is at some distance from the actual spot of incident and the presence is at a different point of time as compared to co-accused. Thus, the chain of circumstantial evidence is not prima facie complete or conclusive at this stage so as to unerringly point toward the guilt of the applicant.

12. As regards the recoveries made at the instance of the applicant, it is not in dispute that the mobile phone, rings, and

Bluetooth of the deceased Karan were recovered not from the applicant directly, but from third parties, who were allegedly pointed out by the applicant. Similarly, the alleged rope is recovered from an open area and was not hidden or concealed. The evidentiary value of such recoveries is a matter of trial. Moreover, it is not shown that any blood-stains or DNA evidence connecting the rope or recovered articles directly with the deceased and the applicant has been found.

13. It is important to note that the DNA report does not establish any forensic link between the applicant and the deceased. On the contrary, the report indicates that the DNA found on the recovered articles matches with the co-accused, thereby prima facie suggesting that the co-accused had more direct physical involvement in the incident. This aspect weakens the prosecution's case against the present applicant, especially when there is no independent material to connect him with the actual commission of the offence.

14. Furthermore, the prosecution has not placed on record any material to show that the applicant was socially, familially, or otherwise connected with either the co-accused or the deceased persons. In cases of conspiracy, the law requires at least some credible material to indicate prior meeting of minds, common intention, or shared motive. However, in the present case, no such evidence—either oral or documentary—has been brought to the fore which would show that the applicant had any reason, motive or background to participate in the alleged offence. Even the call data records (CDRs) or chats, if any, have not been shown to

suggest any pre-planned arrangement or conspiracy involving the applicant.

15. The only circumstance sought to be relied upon is that the applicant was seen in the locality on or around the date of the incident. However, mere presence in the vicinity, without any supporting evidence of participation or common intention, cannot be treated as incriminating. The applicant has explained that he is a migrant worker who had come to Mumbai for earning his livelihood, and his presence in the locality, by itself, is not unnatural or suspicious. It is well settled that suspicion, however strong, cannot take the place of legal proof, especially at the stage of bail.

16. Bail cannot be denied merely on the basis of proximity or association, unless a clear chain of circumstances is established pointing exclusively to the guilt of the accused. In the present case, such a complete chain of circumstances is lacking.

17. Additionally, the applicant has been in judicial custody for a substantial period, and the investigation is now complete. The charge sheet has been filed, and no further custodial interrogation is required. In these circumstances, continued detention of the applicant, when his role is not clearly defined and where direct or cogent evidence is lacking, would not serve the ends of justice.

18. The applicant is a permanent resident of Uttar Pradesh, but the possibility of him absconding or tampering with witnesses can be addressed by imposing appropriate conditions. He has no known criminal antecedents, and has expressed willingness to

abide by all conditions the Court may impose.

19. In view of the above circumstances, this Court is of the opinion that the applicant has made out a case for grant of bail. However, in order to ensure his presence during trial and to safeguard the prosecution's interest, certain conditions are required to be imposed.

20. 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.385 of 2023 registered with Govandi Police Station for offences punishable under Sections 302, 201, 120(b), and 34 of the Indian Penal Code, 1860 read with Section 4 read with 25 of the Indian Arms 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 report the Govandi Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - d) The applicant shall not leave the territorial jurisdiction

of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

21. It is made clear that the above observations are prima facie in nature, made only for the purpose of deciding the bail application, and the Trial Court shall not be influenced by the same while deciding the matter on merits.

22. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)