

Shabnoor

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

BAIL APPLICATION NO. 2966 OF 2024

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Prashik Pandurang Pawar

... Applicant

V/s.

State of Maharashtra & Anr.

... Respondents

Mr. Sumedh S. Modak for the Applicant.

Ms. Shilpa G. Talhar, APP for State – respondent.

Mr. V. S. Pawar, PSI Murbad Police Station.

CORAM : AMIT BORKAR, J.**DATED : JUNE 16, 2025****P.C.:**

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, whereby the applicant seeks his release on bail in connection with C.R. No. 42 of 2024 registered with Murbad Police Station, District Thane, for offences punishable under Sections 305 and 363 read with 34 of the Indian Penal Code, 1860, Sections 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. As per the case of the prosecution, a complaint was lodged by Respondent No.2, who is the father of the deceased child. It is stated that the deceased had left behind a suicide note, wherein he allegedly mentioned that he was subjected to beating, torture and

humiliation at the hands of the applicant and other co-accused persons along with their friends. It is further alleged that the said incident was videographed. Due to the mental harassment and humiliation caused by such acts, the child committed suicide. The applicant was arrested on 24th February 2024 and thereafter remanded to judicial custody. His bail application preferred before the Sessions Court came to be rejected. Hence, the applicant has approached this Court seeking regular bail.

3. Learned counsel appearing on behalf of the applicant submitted that the suicide note does not name the applicant as one of the main persons involved in the beating or abuse. It was argued that there is no specific role attributed to the applicant, except his presence at the scene. It was further submitted that the statements of the witnesses do not clearly indicate any direct or active role played by the applicant in the incident that allegedly led to the suicide. The applicant is 22 years old and has no past criminal record. It is submitted that he is a student and a first-time offender, and considering his young age and background, he be enlarged on bail with suitable conditions.

4. On the other hand, the learned Additional Public Prosecutor (APP) strongly opposed the bail application. It was submitted that the applicant was present at the spot along with the main accused when the act of beating and harassment took place. The prosecution contends that even if he did not actively assault the victim, his presence and passive participation emboldened the co-accused and amounted to instigation or aiding of the act. It is argued that the acts committed were serious in nature and had a

direct psychological impact on the minor victim, which led to his suicide, and therefore, in view of the seriousness of the offence, the applicant does not deserve to be released on bail at this stage.

5. I have considered the rival submissions advanced on behalf of the applicant and the learned Additional Public Prosecutor. I have also perused the material placed on record, including the FIR, suicide note, statements of witnesses, and other investigation papers.

6. Prima facie, it appears that the suicide note refers to the act of beating and torture inflicted upon the deceased, allegedly by a group including the present applicant. However, it is pertinent to note that no specific overt act is attributed to the applicant in the suicide note. The applicant is not directly named as having assaulted or physically tortured the deceased. The allegation appears to be that the applicant was present along with the co-accused at the time of the incident.

7. From the statements of the witnesses recorded under Section 161 of Cr.PC., it is evident that the applicant was seen in the company of the main accused persons, and may have been part of the group, but there is no clear evidence at this stage to show that he actively participated in the assault or the alleged act of filming the incident.

8. Further, it is an undisputed position that the applicant is only 22 years old, is a first-time offender, and has no criminal antecedents. He has been in custody since 24th February 2024, and the charge sheet is already filed. The possibility of tampering

with evidence is remote, particularly when the evidence is documentary in nature and most of the witnesses are family members of the victim.

9. At this stage, the extent of the applicant's culpability or his role in abetment to suicide can only be adjudicated during the trial, after recording of evidence and cross-examination of prosecution witnesses. This Court is conscious of the fact that a minor boy has lost his life, and the matter is of a serious and sensitive nature. However, the settled principle of criminal jurisprudence is that bail is the rule and jail is the exception, and the gravity of the offence alone cannot be the sole ground to deny bail, particularly in the absence of prima facie material showing direct involvement.

10. In light of the above discussion and considering the nature of allegations, the age of the applicant, and the period of incarceration undergone, I am of the opinion that further pre-trial detention of the applicant is not warranted, and the applicant deserves to be released on bail, subject to strict conditions to ensure he does not misuse the liberty.

11. In view of the above discussion, the following order is passed:

(a) The bail application is allowed.

(b) The applicant Prashik Pandurang Pawar shall be released on bail in connection with Crime Register No. 42 of 2024 registered with Murbad Police Station, on executing a Personal Bond in the sum of ₹30,000/- (Rupees Thirty

Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court.

(c) The applicant shall not directly or indirectly make any contact with the family members of the deceased or any prosecution witnesses, and shall not tamper with the evidence in any manner.

(d) The applicant shall report to the concerned police station once every month (i.e., on 1st day of every month) between 10:00 a.m. to 12:00 noon, until further orders.

(e) The applicant shall furnish his current residential address and mobile number to the Investigating Officer, and shall inform the Investigating Officer of any change in address or contact details forthwith.

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

12. The observations made herein are prima facie in nature and made solely for the purpose of deciding this bail application. The Trial Court shall proceed uninfluenced by any of these observations while conducting the trial.

13. The Bail Application stands disposed of accordingly.

(AMIT BORKAR, J.)