

Ashish

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

BAIL APPLICATION NO.3011 OF 2024

Trisharan Pandurang Dandge	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Mohsin Khan h/f Babu Singh for the Applicant.

Mrs. Shilpa G Talhar, APP for State.

Mr. B.H. Sawant, PSI, Bhandup Police Station, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : JULY 9, 2025

P.C.:

1. This is an application preferred by the applicant seeking regular bail under Section 439 of the Criminal Procedure Code, 1973 in connection with Crime Register No.591 of 2021. The said crime is registered at Bhandup Police Station for offences punishable under Sections 307, 376, 376(2)(f), 376(2)(k), 376(2)(m), 377, 354(a), 354(b), 325, 342, 323, 504, and 506 of the Indian Penal Code, 1860.

2. The prosecution case, as reflected from the charge-sheet and complaint, reveals a grave and distressing allegation of brutal assault by the applicant upon his legally wedded wife. It is alleged that on 5th November 2021, despite clear resistance by the victim, the applicant forcibly established sexual relations with her

between 1:00 p.m. and 6:30 p.m., accompanied by physical violence. Further, the prosecution alleges that even after the said incident, the applicant followed the victim to the house of her relatives and again assaulted her in a brutal manner, which has been specifically narrated in the First Information Report. The investigation in the case has been completed and the charge-sheet has been filed, containing allegations of attempt to murder and unnatural sexual intercourse, among other serious offences.

3. Learned counsel for the applicant submitted that the applicant has been in custody since 6th November 2021. It is further submitted that although the charges in the matter were framed in the year 2024, the trial has not yet commenced. The prosecution has listed 13 witnesses, and as of now, no substantial progress has taken place in the trial proceedings. It is also submitted that during the pendency of the trial, the victim unfortunately passed away due to reasons unconnected with the present incident. The applicant and the deceased victim are survived by two minor daughters, who presently have no parent to look after them. Learned counsel states that the daughters have submitted a no-objection before the learned Sessions Court, expressing their consent for release of the applicant on bail, considering his role as their father and sole guardian. In view of these circumstances, the applicant prays for his release on bail.

4. On the other hand, the learned Additional Public Prosecutor vehemently opposed the bail application. It is submitted that the assault committed upon the victim was extremely brutal, and the same is corroborated by medical evidence on record. It is further

argued that the ground of care and custody of the daughters is not tenable for grant of bail, as the two daughters are currently being taken care of by their maternal grandparents and are not left abandoned. Given the gravity of the allegations, nature of offences, and conduct of the applicant as borne out from the case papers, it is urged that this is not a fit case to grant bail.

5. I have considered the submissions advanced on behalf of the applicant and the learned APP. I have perused the charge-sheet, including the nature of allegations, medical evidence, and other material placed on record. There is no doubt that the allegations levelled against the applicant are of a serious nature, involving alleged offences of sexual assault and physical violence against his wife. However, it is pertinent to note that the incident is of the year 2021 and the applicant has remained in custody for more than three years eight months as on date.

6. The charges in the matter were framed in the year 2024, yet the trial has not commenced. Though the prosecution has cited 13 witnesses, no witness has been examined till date. The trial is not likely to conclude in the near future. Prolonged incarceration without any progress in the trial would defeat the right of the accused to a speedy trial, which is a fundamental right guaranteed under Article 21 of the Constitution of India.

7. Another relevant circumstance is that the victim, who was the complainant in the present case, passed away during the pendency of the trial due to causes not related to the present crime. The two daughters born out of the wedlock are now left

without both parents. It is brought on record that the daughters have submitted a no-objection before the learned Sessions Court, praying for release of their father.

8. At this stage, the applicant cannot be considered a flight risk, nor is there material to suggest that he may tamper with the prosecution evidence, particularly since the primary witness, i.e., the victim, is no more. Further, the remaining evidence is documentary and medical in nature.

9. In light of the totality of the facts and circumstances, including the prolonged custody of the applicant, pendency of trial, demise of the victim, and welfare of the minor daughters, this Court is of the view that a case for granting regular bail is made out.

ORDER

(a) The application is allowed.

(b) The applicant is directed to be released on bail in connection with C.R. No. 591 of 2021 registered with Bhandup Police Station, for offences punishable under Sections 307, 376, 376(2)(f) (k) (m), 377, 354 (a)(b), 325, 342, 323, 504, 506 of Indian Penal Code, on his executing PR. Bond of ₹15,000/- (Rupees Fifteen Thousand Only) with one or more sureties in the like amount.

(c) The applicant shall not tamper with the evidence or attempt to influence any witness.

(d) The applicant shall report to the Investigating Officer once in a month on first Monday between 10 am to 12 am.

(e) The applicant shall furnish his current residential address and contact number to the Investigating Officer and shall not change the same without prior intimation to the Court.

(AMIT BORKAR, J.)