Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3041 OF 2024

Rupesh Ramnath Rai @
Ravi @ Atul Vijay Kedia … Applicant

V/s.

The State of Maharashtra … Respondent

Ms. Anima Mishra with Ms. Shivani Dixit, Mr. Anuj, & Ms. Aisha Patel i/by Mr. Subhash P. Hulyalkar for the applicant.

Mrs. Megha S. Bajoria, APP for the respondent-State.

Mr. Kokate, PSI, Santacruz Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 4, 2025

P.C.:

1. By the instant bail application filed under Section 439 of the Criminal Procedure Code, 1973 ("Cr.P.C." for short), the applicant is seeking his release on regular bail in connection with Crime Register No.126 of 2003 registered with Santacruz Police Station, Mumbai for offences punishable under Sections 302, 201, 397, 420, 465, 467, 468, and 471 of the Indian Penal Code, 1860 ("IPC" for short).

2. As per the case of prosecution, the complainant lodged First Information Report on 3 April 2003. It is stated that on the said date, at around 10:00 a.m., when the complainant joined his duty in the hotel, one Mr. Sudhir Balkrishna Shetty handed over to him a duplicate key of Room No.108 and asked him to get the said room serviced. Upon opening the room, the complainant noticed one person lying on the bed covered with a rug, appearing to be asleep. He tried to wake him up by pressing the bell, but there was no response. Thereafter, the complainant informed Mr. Sudhir Shetty and kitchen supervisor Mr. Ravi Hegde. Both of them also tried to wake up the said person but failed.

3. Subsequently, another Manager Mr. Chandrakant Shetty and owner Mr. Ramesh Shetty were called. When they arrived, they too tried to wake up the person by moving him, but he remained motionless. On removing the rug, it was revealed that the person was lying in a pool of blood with visible injuries caused by a sharp weapon. Immediately, the matter was reported to the police and the crime was registered. It is further seen that though the incident occurred in the year 2003, the charge-sheet has been filed only after a long lapse of 20 years, and the applicant came to be arraigned as accused much later.

4. The learned Advocate appearing for the applicant submitted that the entire case of prosecution rests only on circumstantial evidence. There is no clear motive attributed to the applicant for committing the murder of the deceased. The identity of the applicant is also not firmly established by the prosecution. It is further argued that the applicant did not remain absconding for the past 20 years, and no efforts were made by the police to arrest him earlier. Even assuming the prosecution case to be true, the applicant would have been less than 16 years of age at the relevant time, which itself creates doubt about his involvement. The applicant was ultimately arrested only on 30 May 2023, i.e., two decades after the alleged offence. Considering that the prosecution has cited as many as 38 witnesses, the likelihood of the trial being completed in near future is very remote. On these grounds, it was prayed that the applicant deserves to be released on regular bail.

5. Per contra, the learned APP opposed the bail application and submitted that the material on record strongly connects the applicant with the crime. According to the statement of the Hotel Manager, the applicant, along with the deceased, had checked into the hotel on 31 March 2003 and was allotted Room No.108. On 3 April 2003, at around 9:00 a.m., the applicant was seen leaving the hotel by the said Manager. Thereafter, no other person is shown to have entered the said room until the body of the deceased was discovered. The father of the deceased has also stated that the applicant and the deceased were jointly engaged in some business and had travelled together to Mumbai. It is further submitted that the applicant deliberately concealed his identity for the last 20 years by changing his name and documents. The prosecution has produced material to show that the applicant used the names "Atul Vijay Kediya" and "Ravi Kediya" in his passport, bank accounts, and mobile connections, while his original name was "Rupesh Ramnath Rai."

6. The learned APP further pointed out that the applicant's fingerprints were found on a drinking glass recovered from the scene of incident, which directly links him to the crime. The claim that the applicant was a minor at the time of incident cannot be accepted as the age recorded in the hotel register as well as the witnesses' accounts indicate that he was around 25 to 30 years of age. The explanation of the applicant regarding his age is not convincing. It was further argued that the conduct of the applicant in absconding for 20 years, adopting different identities, and evading arrest, clearly shows his intention to avoid facing trial. Therefore, there exists a strong apprehension that if released on bail, the applicant will again abscond and the trial will never see its logical conclusion. Hence, the prayer for bail is strongly opposed.

7. I have carefully considered the submissions of both sides and perused the record of investigation. The charges against the applicant are for grave and serious offences punishable under Sections 302, 201, 397, 420, 465, 467, 468, and 471 of IPC. The allegations involve the murder of one person inside a hotel room, followed by acts of concealment and forgery of documents. At this stage, the Court is not required to appreciate the entire evidence as in trial, but only to examine whether the material placed on record prima facie connects the applicant with the crime and whether his release on bail would be justified.

8. The prosecution has placed on record the statement of the hotel manager, which clearly shows that the applicant and the deceased had together booked Room No.108 on 31 March 2003. Further, it has come in evidence that on 3 April 2003, at about 9:00 a.m., the applicant was last seen leaving the hotel premises. Thereafter, no other person was seen entering Room No.108 till the discovery of the dead body of the deceased inside the said room. This circumstance, therefore, strongly indicates that the deceased was last seen alive in the company of the applicant, and the applicant alone was the person who left the room before the body was discovered.

9. In criminal law, when the prosecution proves that the deceased was last seen alive in the company of the accused, and the time gap between the last seen and the discovery of the dead body is short, then a heavy burden lies on the accused to explain the circumstances leading to the death of the deceased. The "last seen theory" becomes a vital link in the chain of circumstantial evidence, provided it is closely connected with the time of death.

10. In the present case, the chain of circumstances prima facie shows that the applicant was the last person seen with the deceased in the hotel room, and immediately thereafter, the deceased was found dead in a pool of blood with injuries caused by a sharp weapon. The absence of any intervening circumstance or third-party entry into the room strengthens the inference that the applicant is connected with the offence. At this stage, the applicant has not offered any satisfactory explanation as to how the deceased sustained fatal injuries inside the hotel room which was jointly occupied by him and the applicant.

11. The inference arising from the "last seen together" circumstance is further fortified by the conduct of the applicant after the incident. It is a settled principle of law that the conduct of an accused before and after the commission of an offence can be taken into account as a relevant circumstance under Section 8 of the Indian Evidence Act, 1872. In the present case, the material on record shows that immediately after the incident, the applicant remained untraceable for a period of about 20 years. During this period, he assumed different names such as “Atul Vijay Kediya” and “Ravi Kediya” and used those names in official documents like passport, bank account, and mobile connection. Such conduct prima facie demonstrates an intention to conceal identity and evade the process of law.

12. If the applicant had no role to play in the death of the deceased, there was no reason for him to abscond and live under a false identity for two decades. His prolonged absence and deliberate concealment of identity lend strong corroboration to the prosecution case that he was indeed involved in the crime. Absconding by itself is not conclusive proof of guilt, but it is certainly a relevant circumstance which, when coupled with other incriminating circumstances, strengthens the chain of evidence against the accused.

13. Thus, in the present case, the circumstance of the applicant being last seen with the deceased, immediately followed by the discovery of the dead body inside the same room, coupled with his absconding for 20 years under assumed identities, forms a strong and consistent chain of circumstances pointing towards his involvement in the offence. At the stage of bail, such circumstances cannot be lightly brushed aside.

14. In addition to the circumstance of “last seen together,” the prosecution has also placed on record material of scientific nature, namely the fingerprint report, which shows that the fingerprints of the applicant matched with those found on a drinking glass recovered from Room No.108 where the incident took place. This scientific evidence is an important circumstance as it rules out speculation and provides objective corroboration of the applicant's presence in the hotel room during the relevant period. Forensic evidence, when duly collected and proved, carries a high degree of reliability, and at this stage it lends strong support to the prosecution version.

15. The statement of the deceased's father further corroborates the prosecution case. He has specifically stated that the deceased had travelled to Mumbai along with the applicant, as both of them were engaged in business dealings jointly. This circumstance shows that the applicant was not a stranger but was closely associated with the deceased, and their companionship leading up to the incident is admitted. Thus, the evidence of the deceased's father connects the applicant with the deceased not only on the date of occurrence but also establishes the background of their joint presence in Mumbai.

16. When these circumstances are read together, the deceased being last seen with the applicant, the applicant leaving the hotel alone before the body was discovered, the fingerprints of the applicant found on the drinking glass in the very room where the crime occurred, and the corroborative statement of the deceased's father, they form a strong and consistent chain of prima facie evidence pointing towards the complicity of the applicant.

17. It is well settled by the Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra* [(1984) 4 SCC 116] that in a case based on circumstantial evidence, each circumstance must be firmly established and all circumstances, taken cumulatively, must lead to the only hypothesis consistent with the guilt of the accused. At the stage of considering bail, if the prosecution is able to demonstrate such a prima facie chain of evidence, the Court cannot lightly disregard it.

18. When considered cumulatively, the forensic evidence in the form of fingerprints and the corroborative evidence of the deceased's father create a strong link in the chain of circumstances against the applicant. At the stage of bail, the Court is not expected to conduct a detailed appreciation of evidence as at trial, but it is well settled that when such material is placed on record which prima facie establishes the presence of the accused at the crime scene and his association with the deceased immediately before the incident, the same cannot be lightly ignored.

19. When the circumstances proved form a complete chain leading to no other conclusion except the guilt of the accused, the accused is under an obligation to offer a plausible explanation, failing which an adverse inference can be drawn. In the present case, the applicant has not provided any satisfactory explanation as to how his fingerprints were found on an article from the crime scene, nor as to how the deceased, who was last in his company, was later discovered murdered in the same room.

20. The circumstances proved by the prosecution also attract the principle embodied in Section 106 of the Indian Evidence Act, 1872, which lays down that when any fact is especially within the knowledge of a person, the burden of proving that fact is upon him. In the present case, it is an admitted position that the applicant and the deceased had jointly checked into Room No.108 of the hotel. The deceased was later found murdered inside that very room, and the applicant was last seen leaving the hotel alone on the morning of 3 April 2003. His fingerprints were also recovered from a drinking glass in the said room. These facts collectively establish the applicant's close presence and association with the scene of crime.

21. Once such circumstances are proved, it was for the applicant to explain what transpired inside the hotel room and how the deceased came to suffer fatal injuries. This explanation was within his special knowledge, and no other person could reasonably be expected to account for these facts. However, the applicant has not furnished any plausible or satisfactory explanation, either during investigation or in the present proceedings, regarding the death of the deceased who was last in his company.

22. When an accused is last seen with the deceased and no explanation is forthcoming under Section 106 of the Evidence Act, an adverse inference can legitimately be drawn against him. At the stage of bail, such non-explanation, coupled with strong circumstantial and forensic evidence, is a weighty factor militating against grant of liberty.

23. Thus, in the present case, the failure of the applicant to discharge the burden of explanation under Section 106, when weighed along with the last seen circumstance, the fingerprint evidence, and his prolonged abscondence, strengthens the chain of prima facie evidence against him. These circumstances, when viewed together, create a reasonable ground to believe that the applicant is involved in the commission of the offence, and releasing him on bail would not be justified.

24. The contention of the applicant that his age was below 16 years at the time of incident does not appear to be convincing. The hotel records, witness accounts, and the age mentioned by contemporaneous evidence indicate that the applicant was a major, estimated to be around 25 to 30 years at the relevant time. The discrepancy sought to be created about his minority cannot be accepted at the stage of considering bail.

25. It is true that right to personal liberty under Article 21 of the Constitution is of paramount importance and pre-trial detention is not meant to be punitive. However, liberty is not absolute and must be balanced against the gravity of the offence, the conduct of the accused, and the interest of justice. In the present case, the offence alleged is of murder, committed with premeditation and followed by forgery and cheating. The gravity of the offence, coupled with the possibility of the applicant absconding once again and tampering with witnesses, tilts the balance against granting bail.

26. The trial involves serious charges of murder and related offences, supported by circumstantial and forensic evidence. The applicant has a history of changing identity and evading law. If released on bail, there is every likelihood that he may abscond or misuse the liberty to obstruct the trial. The apprehension expressed by the prosecution in this regard is well founded.

27. For all these reasons, I am of the considered opinion that this is not a fit case for granting bail to the applicant.

28. The bail application, therefore, stands rejected.

(AMIT BORKAR, J.)