

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3241 OF 2024

Krushna Devendra Badekar Applicant

V/s.

State of Maharashtra Respondent

NILAM
SANTOSH
KAMBLE
Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2025.01.18
13:45:03 +0530

Mr.Kuldeep U. Nikam, for the Applicant.
Mr.Ajay S. Patil, APP, for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JANUARY 2025

P.C:-

1. By this Application, Applicant is seeking bail in Crime No.424 of 2019 registered with Chaturshrungi Police Station, Pune for the offence punishable under Sections 302, 394, 460, 120B read with Section 34 of the Indian Penal Code ('IPC' for short), Section 4(25)(27) of the Arms Act and Section 37(1) read with section 135 of the Maharashtra Police Act.

2. It is prosecution case that, on 17th April 2019 about 7.00 p.m. the Applicant and co-accused robbed the deceased by entering in his flat and killed him by smothering by pillow on his

nose and mouth.

3. The allegations against the Applicant that, the Applicant was part of the group who robbed and killed the deceased.

4. It is contention of the learned counsel for the Applicant that, the prosecution case is based on circumstantial evidence. Initially the FIR was lodged against unknown person under Section 380 of the IPC. After 10 days of the incident Section 302 was added. The learned counsel further submitted that, the Applicant is behind bar around six years. Yet trial has not commenced. The charge has been framed against the Applicant in June 2022. Yet single witness has not been examined by the prosecution. It may take time to conclude the trial. The police has recovered a motorcycle used in crime and key of the flat of the deceased at the instance of the Applicant. The learned counsel further submitted that, postmortem of the deceased is done, there is no opinion about cause of death and no injuries found on the body of the deceased. So it is not clear how deceased died. As prosecution has not examined single witness after framing of charge. The Applicant was not even put to T.I. Parade. It may take time to conclude the trial.

Hence, requested to allow the Application.

5. It is contention of the learned APP that, the Applicant and co-accused murdered senior citizen who was staying alone in his house, by smothering the pillow and robbed him. The Applicant and co-accused withdrew the amount from the bank accounts of the deceased. The police has seized ATM card of the deceased at the instance of the Applicant. There is a recovery of bike and key of the flat at the instance of Applicant. It shows involvement of the Applicant in the crime. The Applicant was seen in the CCTV footage. There is strong case against the Applicant, hence, requested to reject the Application.

6. I have heard both learned counsel. Perused charge-sheet.

7. The allegations against the Applicant are that, he and co-accused killed the deceased. The police has seized ATM card , recovered flat key of the deceased and motorcycle used in crime at the instance of the Applicant. The Applicant is behind bar for around 6 years. The charge has been framed against the Applicant in June-2022. Yet prosecution has not examined any witness.

The prosecution case is based on circumstantial evidence. The FIR was lodged under Section 380 of the I.P.C. i.e. for theft. After 10 days of the incident Section 302 of I.P.C. is added in FIR. The Postmortem report does not shows cause of the death. To prove involvement of the Applicant in the murder of the deceased, evidence is required. As for around 6 years prosecution has not examined single witness and the case is based on circumstantial evidence. It may take time to conclude the trial. Considering these facts, I am inclined to allow the Application, and I pass following order.

ORDER

- (i) The Applicant be released on bail in Crime No.424 of 2019 registered with Chaturshrungi Police Station, Pune on furnishing PR bond of Rs.50,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station once in month.
- (iii) The Applicant shall not tamper with the

evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)