

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3767 OF 2024

Gopal Rajnath Yadav	.. Applicant
Versus	
State Of Maharashtra	.. Respondent

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- Mr. Nitin Sejpal a/w Ms. Pooja Sejpal and Ms. Akshata Desai, Advocates for Applicant.
 - Ms. Megha S. Bajoria, APP for State.
 - PSI – Rameshwar Darade, Chitalsar Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 24, 2025

P. C.:

1. Heard Mr. Sejpal, learned Advocate for Applicant and Ms. Bajoria, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 65 of 2018 registered with Chitalsar Manpada Police Station for offences punishable under Sections 302, 364, 201 r/w 34 of Indian Penal Code, 1860. There are total four accused indicted in the present crime.

3. Role of the Accused No.3 - Ratanlal Rajnath Yadav is identical with the role of the present Applicant. Both of them are brothers of Chandni, who was probably meeting the victim Wasim Rashid Fakir Khan at a public place (mall) in Thane and was

confronted by her brothers and which is the motive for the present crime in question.

3.1. In paragraph No.5 of the order dated 22nd August, 2024 while granting bail to Accused No.3 - Ratanlal Rajnath Yadav this Court has examined the *prima facie* merits of the Test Identification Parade by noting that in the first Test Identification Parade which was conducted immediately after the occurrence of the crime the complainant did not identify any of the three accused involved in the crime question but three months later when the second Test Identification Parade was conducted he identified all three accused persons. This Court therefore expressed doubt.

3.2. The case of the Applicant before me is similar considering his role being identical with the Role of Accused No.3 – Ratanlal Rajnath Yadav who has been enlarged on bail. Mr. Sejpal, learned Advocate for Applicant has therefore argued the ground of parity coupled with the long incarceration of Applicant for the last 6 years 11 months and 6 days pending trial.

4. Ms. Bajoria, learned APP has effectively countered the submissions made by the learned Advocate for Applicant *qua* long incarceration by stating that the trial virtually is at its end and the prosecution is going to examine 4 or 5 more witnesses including the Investigating Officer and the Post-mortem doctor.

5. Mr. Sejpal would submit that complainant is the eye witness and he is not examined by the prosecution till date since he is not even traceable.

6. Learned APP has taken instructions from the Investigating Officer who is present in the Court today and would submit that prosecution will make every effort and endeavor to complete the trial by the end of April, 2025.

6.1. She would also draw attention of the Court to paragraph No.5 of the order dated 22nd August, 2024, wherein while granting bail to Accused No.3 – Ratanlal Rajnath Yadav, this Court has noted that at that time 11 witnesses were examined by the prosecution and thereafter two further witnesses have been examined.

7. I am inclined to consider the Application of the Applicant for two specific reasons in the *prima facie* facts of the present case, firstly role of the Applicant being identical with that of the co-accused – Ratanlal Rajnath Yadav his brother. As can be seen from the FIR, both Ratanlal and Applicant confronted their sister Chandni along with the deceased - victim in a public place and assaulted him and thereafter took him to another place and further assaulted him thereafter. Identical role of Accused No.3 - Ratanlal Rajnath Yadav and present Applicant are *prima facie* noted by the Court. Secondly, though Ms. Bajoria has pleaded to the Court that the prosecution shall make

endeavor to complete the trial considering that the prosecution now is required to examine the Investigating Officer the post-mortem doctor and other panch witnesses only, however, considering long incarceration of the Applicant for the last 6 years 11 months and 6 days persuades me to consider the Application of Applicant.

8. In view of the above *prima facie* observations, Applicant has made out a case for bail. Application is allowed subject to the following terms and conditions:-

- (I) Applicant is directed to be released on bail on furnishing PR. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of concerned Police Station as and when called;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;

(vii) Any infraction of the above conditions shall entail cancellation of this order.

9. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case.

10. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]