

BAIL APPLICATION NO.3796 OF 2024

Manish Kumar Aadhya Prasad Shukla ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Bhagwan Pawar, PSI, Kurar Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 24, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 55 of 2023 registered with Kurar Nagar Police Station, Mumbai. The applicant is accused of having committed an offence punishable under Section 302 of the Indian Penal Code, 1860 (i.e., offence of murder).

2. The brief facts as set out by the prosecution are that on 24 January 2023, the informant lodged a report stating that on the same day at about 6:30 a.m., one Bhangarwal Aasam made a phone call to the mobile number of her daughter-in-law and called

her near the footpath opposite Pari Hotel, close to Harsh Traders, Malad. On reaching there, she came to know that her son Sankesh had sustained serious injuries and was unconscious. He had been admitted by the police to Dr. Babasaheb Ambedkar Hospital, Kandivali, for medical treatment. When the relatives reached the hospital, the attending doctor declared that Sankesh had succumbed to his injuries. The applicant was arrested on the same day, i.e., 24 January 2023. His earlier application for bail before the learned Sessions Court came to be rejected. Hence, the present application is filed before this Court.

3. Learned Advocate appearing on behalf of the applicant submitted that the entire case of the prosecution is based on circumstantial evidence. The only two circumstances relied upon are—(i) the applicant being allegedly last seen at the spot, and (ii) recovery of a weapon from his possession. It is submitted that the place of incident is an open area and there is no material on record to establish the precise time when the applicant was last seen at the spot. The learned Advocate submitted that the chain of circumstances is incomplete and does not conclusively point towards the guilt of the applicant. Considering that the death occurred on 24 January 2023 and more than two years have elapsed, the prosecution's case based on circumstantial evidence appears weak. Therefore, it is prayed that the applicant be released on bail.

4. On the other hand, the learned APP for the State has opposed the bail application. It is submitted that the circumstances relied upon by the prosecution are sufficient to show the

involvement of the applicant. The presence of the applicant at the place where the deceased was last seen is supported by CCTV footage. In view of this, the learned APP submits that no case is made out for granting bail and the application deserves to be rejected.

5. I have heard the learned counsel for the applicant and the learned APP for the State. I have also perused the FIR, charge-sheet and other documents produced on record.

6. The applicant is seeking regular bail in connection with Crime Register No. 55 of 2023 registered at Kurar Nagar Police Station for offence punishable under Section 302 of the Indian Penal Code. The incident is stated to have occurred on 24 January 2023, on which date the deceased Sankesh was found injured and unconscious near a footpath opposite Pari Hotel, Malad, and subsequently succumbed to injuries at Dr. Babasaheb Ambedkar Hospital, Kandivali.

7. The case of the prosecution is essentially based on circumstantial evidence. It is submitted that the two main circumstances relied upon by the prosecution are — (i) the applicant being last seen at or near the spot, and (ii) recovery of weapon allegedly used in the assault, at the instance of the applicant.

8. It is a settled position in criminal law that when a case rests entirely on circumstantial evidence, the chain of circumstances must be so complete that it leaves no reasonable ground for a conclusion consistent with the innocence of the accused, and must

unerringly point towards the guilt of the accused. The Hon'ble Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116, has laid down the five golden principles governing cases based on circumstantial evidence. These principles demand that each circumstance relied upon must be fully established and the chain of evidence must lead only to one conclusion — that the accused is guilty.

9. In the present case, it is not the prosecution's case that there is any eyewitness who saw the actual assault. The prosecution has relied upon the CCTV footage to suggest that the applicant was seen near the place of occurrence shortly prior to the incident. However, the exact time when the deceased suffered injuries is not conclusively established on record. The applicant's presence in an open public place, without more, does not conclusively establish guilt, particularly when there is a time gap between the sighting and the discovery of the deceased in an unconscious state.

10. As far as the recovery of the alleged weapon is concerned, it is to be noted that the recovery is from an open space and is not shown to be from the exclusive possession of the applicant. At this stage, it is difficult to conclude that such recovery satisfies the tests under Section 27 of the Evidence Act in its full effect to connect the applicant to the crime.

11. It is further submitted that the applicant has been in custody since 24 January 2023, and more than 2 years and 5 months have passed. The trial has not yet commenced. There is no material on record to suggest that the applicant, if released on bail, is likely to

abscond or tamper with the prosecution witnesses. In fact, most of the material evidence appears to be documentary or CCTV footage-based.

12. While the seriousness of the offence alleged under Section 302 IPC cannot be undermined, the Court cannot overlook the fact that prolonged pre-trial detention, particularly when the trial is not proceeding with due expedition, is detrimental to the personal liberty guaranteed under Article 21 of the Constitution.

13. Considering the totality of circumstances, including the nature of evidence, the time already spent in custody, and in the absence of any material showing likelihood of the applicant fleeing from justice or tampering with evidence, this Court is of the view that the applicant deserves to be released on bail with appropriate conditions.

14. Hence, following order:

(a) The Bail Application is allowed.

(b) Considering the applicant's financial status, he be released on cash bail of ₹15,000/- (Rupees Fifteen Thousand only) in connection with Crime Register No. 55 of 2023 registered with Kurar Nagar Police Station, for offence under Section 302 of IPC.

(c) Within a period of eight weeks from the date of his release, the applicant shall furnish a Personal Bond of ₹15,000/- (Rupees Fifteen Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the

learned Trial Court.

(d) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(e) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(f) The applicant shall report to the Kurar Police Station, once in every month between 10.00 a.m. and 12.00 noon, until further orders.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(f) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(g) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

15. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)