

Nikita

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

BAIL APPLICATION NO.4244 OF 2024

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Mayur Dipak Andhale

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Bhushan Raut a/w Mr. Jaydeep Shinde for the Applicant.

Mr. S. S. Chaudhari, APP for the State.

Mr. Rupesh Zade, for the Respondent No.2.

Ms. Suvarna Gaikwad, PSI, Baramati Talukar Police Station.

CORAM : ASHWIN D. BHOBE, J.

DATED : 15th JULY, 2025

P.C.:

1. Heard Bhushan Raut, learned Advocate for the Applicant.
Mr. S. S. Chaudhari, learned APP for the State.

2. By the present application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, Applicant is seeking bail in connection with C. R. No.134 of 2013 registered with Baramati Taluka Police Station for the offences punishable under Sections 302, 201, 404 and 120-B of the Indian Penal Code, 1860 ("IPC" for short). Said crime is registered as Sessions Case No.627 of 2018 and is pending before the Court of Additional District and

Sessions Judge Baramati.

3. Applicant (Accused No.1) was arrested on 30.07.2013. Bail Application No.544 of 2013 filed by the Applicant was allowed by the learned Additional Sessions Judge by order dated 11.09.2013.

4. Order dated 11.09.2013 passed by the learned Additional Sessions Judge Baramati in Bail Application No.544 of 2013 was challenged by the State as also Ms. Hemlata Dadaso Choudhar (Victim/ wife of the deceased) before this Court, by filing Criminal Application No.680 of 2013 and Criminal Application No.9 of 2014, respectively.

5. By order dated 23.02.2017, this Court allowed Criminal Application No.680 of 2013 and Criminal Application No.9 of 2014, thereby cancelling the bail granted to the Applicant. Observations made by this Court in paragraph Nos. 4, 5 and 6 of the order dated 23.02.2017 are transcribed herein below:

“4. Perused the FIR dated 25.7.2013 and the evidence before the Court as also the impugned order. The role of both the accused is specifically mentioned by the eye witness Rohidas Sitaram Kumbhar which was recorded on 25.7.2013. The Incident of murder took place on 20.7.2013. It is a well planned murder with previous motive. After considering the total evidence and reasoning given by the learned Judge, I do not want to interfere in the bail order of Respondent/accused No.2 Suhas Kalkhaire, However; the order granting bail to Respondent/accused No.1 Mayur Andhale, needs to be set aside.

5. Accused Mayur Andhale is the main perpetrator of the offence. He had called the deceased Dadasaheb. He had planned the conspiracy and he only strangled the deceased first and Suhas Kalkhaire helped him thereafter. Mayur assaulted Dadasaheb and tried to dispose of his body by throwing it with the help of Suhas. The learned trial Judge in his order did not discuss the evidence of eye witness at all. He has only observed that the police have seized the Innova car and, therefore, there is no recovery.

However, he did not consider the other evidence, considering the statement of Rupesh Devchand Patle, who spoke about motive. He ought to have considered the evidence of a Jeweller, namely, Amol Shahane and also the evidence of one Prahlad Shesherav Saste. Accused/Respondent No.1 Mayur Andhale has sold gold ring of the deceased to jeweller Amol Shahane through his relative Prahlad Shesherav Saste and also identification of a gold ring by the wife of the deceased. Prima facie, this establishes nexus of the respondent/accused Mayur Andhale with the offence.

6. It is not that in the case of murder, bail cannot be granted. The manner in which the offence is committed, pre-assault and post-assault conduct of the accused, criminal antecedents, motive, etc. are the weighing factors while using the discretion in bail. Moreover, the period which the applicant/accused has undergone in the prison and filing of chargesheet are also important factors. In the present case, bail was granted within 2½ months before filing of the chargesheet. Grant of bail is discretionary, however, this discretion ought not to have been used in favour of the accused Mayur Andhale. The order wherein material evidence is not considered, is perverse and arbitrary. Though the Courts are very slow in cancelling bail and depriving a person of his liberty, there are cases if the order is found perverse or arbitrary, it can be set aside.”

6. Mr. Bhushan Raut, learned Advocate for the Applicant submits that the Applicant is seeking bail on the ground of his long incarceration. He submits that the Applicant is in jail for almost eight years and the trial is proceeding at a very slow pace. He therefore submits that Applicant would be entitled to bail on the ground of Applicant's long incarceration.

7. Mr. S. S. Chaudhari, learned APP and Mr. Rupesh Zade, learned Advocate for the Respondent No.2 submit that though the bail granted to the Applicant on 11.09.2013, was cancelled on 23.02.2017 and a period of four weeks was granted to the Applicant to surrender/ to be taken in custody, the Applicant did not comply with the order and did not surrender himself. They submit that though the Applicant failed to comply with his

obligation to surrender. They state that during the said period the Applicant was involved in the crime registered with Daund Police Station Pune. They submit that the offences charged against the Applicant in the said crime were under Section 307, 323, 509, 506 read with 34 of the IPC. They submit that it was only upon the Applicant be arrested in the said subsequent crime that he is in custody in the present crime. They submit that the conduct of the Applicant does not entitled the Applicant to any indulgence, more particularly in view of the bail granted to the Applicant being cancelled by this Court. They apprehend that the Applicant would repeat the crimes and involve in offences if granted bail.

8. Mr. Bhushan Raut, learned Advocate for the Applicant submits that, though the Applicant was involved in the crime after the cancellation of the bail, however the Applicant has been acquitted in the said crime. He however does not dispute that the Applicant did not surrender after cancellation of his bail and it was only upon the Applicant being arrested in the subsequent crime that the Applicant is in custody in the present crime.

9. Applicant is charged with grave offences. Gravity of the offence was noted by this Court while cancelling the bail granted to the Applicant. Thus, mere delay in the trial pertaining to a grave offence, by itself cannot be a ground to enlarge the Accused on bail.

10. Considering the conduct of the Applicant i.e. the failure of the Applicant to surrender after the cancellation of the bail and the Applicant being involved in a subsequent crime during the said

period disentitles the Applicant to discretionary reliefs.

11. In view of the above, Criminal Bail Application No.4244 of 2024 is dismissed.

(ASHWIN D. BHOBE. J.)