

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4495 OF 2024

Rameshwar Bandu Chaudhary

Applicant

.. (Accused No. 3)

Versus

State of Maharashtra

.. Respondent

.....

- Mr. Amrish R. Salunke for Applicant
- Dr. Dhanalakshmi Krishnaiyer, APP for Respondent - State

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 13, 2025

P. C.:

1. Heard Mr. Salunke, learned Advocate for Applicant and Dr. Krishnaiyer, learned APP for Respondent - State.
2. Both the learned Advocates were extensively heard on 06.01.2025 and the following order was passed:-

"1. Heard Mr. Salunke, learned Advocate for Applicant and Dr. Krishnaiyer, learned APP for Respondent – State.

2. Applicant is Rameshwar Bandu Chaudhary who has been indicted in offence under Sections 302 read with 34 of the Indian Penal Code, 1860. The date of the incident is 15.08.2020 and on the evening of the said date, Applicant was arrested and is incarcerated since then.

3. At the outset, Mr. Salunke, in his usual fairness draws my attention to the twin orders dated 01.07.2022 and 19.04.2024 appended at page Nos.89 and 91 respectively of the Bail Application. He would submit that there are four accused in the present crime, namely Rameshwar Bandu Chaudhary; Bandu A. Chaudhari, Laxman Bandu @ Popat Bandu Chaudhary and Someshwar Bandu Chaudhary. He would submit that by order dated 01.07.2022, Bandu A. Chaudhary has been granted bail; by order dated 07.12.2022, Laxman @ Popat Bandu Chaudhary has been granted bail and by order dated 15.02.2023, Someshwar Bandu Chaudhary has been granted bail by the Trial Court.

4. He would submit that present Applicant is arraigned as Accused No.1 whereas other 3 accused, namely Bandu Chaudhary; Laxman @ Popat Bandu Chaudhary and Someshwar Bandu Chaudhary arraigned as Accused Nos.2 to 4 all have been granted bail.

5. While drawing my attention to the order dated 19.04.2024, he would submit that, this Court had in the earlier Bail Application taken into cognizance that the Applicant is in long incarceration as also the trial and directed expeditious hearing of the trial. In that regard, he would submit that latest Roznama dated 04.01.2025 states that prosecution has submitted list of 34 witnesses which is appended at page No.26 of the Bail Application which the prosecution desires to examine. He would submit that this Court be pleased to consider the incident occurred on 15.08.2020 and the two precursor incidents thereto which have occurred on 14.08.2020 and 15.08.2020 at 07:00 a.m. in the morning. He would submit that a quarrel ensued between victim / deceased and his wife Ranjana when the victim accused his wife Ranjana of affinity and keeping intimate relationship with her brother accused No.2 namely Rameshwar, who is Applicant before me. He would submit that quarrel ensued on 14.08.2020 at about 03:00 p.m. during which the victim / deceased beat up his wife Ranjana. At that time, son of the victim and Ranjana attempted to intervene in the quarrel, but he was also beaten up.

6. Next precursor incident took place in the early morning hours at 07:00 a.m. between the victim and his wife Ranjana primarily as an extension of the issue on previous date.

7. It is seen that at that time, when the son of victim and Ranjana attempted to once again intervene in the quarrel, he was slashed by a blade on his back by the victim (his father) and thereafter he was shifted to J.J. Hospital for treatment. After admission in the hospital, Ranjana and victim's son reached the Applicant's family and when they informed them about what happened, father of Ranjana namely Bandu Chaudhary initially at about 12:30 p.m. made a phone call to the victim and it is the prosecution case that at that time he threatened the victim with dire consequences to his life for what he had done.

8. The aforesaid two precursor incidents are the cause of the happening of the incident between 12:30 p.m. and 17:10 p.m. as can be seen from the record of the case on the date of incident. He would submit that undoubtedly there has been a skirmish and scuffle. The victim was held by Accused Nos.2 to 4 whereas Accused No.1 used a 'sil batta' (पाटा) which is the grinding stone to inflict one fatal blow on the head of the victim / deceased, resultantly leading to his death.

9. Considering the role of the other co-accused of having held the victim during the aforesaid incident, the Trial Court has granted them bail.

10. Mr. Salunke, learned Advocate would draw my attention to the fact that considering the two precursor incidents namely the fact that serious allegations were made by the victim of his own wife having illicit relationship with her brother i.e. Accused No.1 is the root cause of the matter before the Court. He would submit that there was enough provocation leading to the incident of assault and the unintentional

resultant death of the victim. He would submit that no family member of any women would premeditate such an offence unless there is same grave provocation which can be seen in the present case. I have perused the record of the case. Prima facie, it is seen that Applicant has been long incarcerated since the year 2020.

11. Dr. Krishnaiyer, learned APP has also taken me through the record of the case and would draw my attention to the averments recorded in the order of the Sessions Court while rejecting bail to the Applicant that there are 24 antecedents against the present Applicant. Mr. Salunke would however refute the same.

12. She would persuade the Court to permit her to take appropriate instructions so as to place the same before the Court on the next adjourned date considering the Application of the Applicant.

13. At her request, one week time is granted to ascertain the details and place the same before the Court.

14. Stand over to 13th January 2025. To be listed under the caption "Part-Heard".

3. Today when the matter is heard, Dr. Krishnaiyer, learned APP on instructions would inform the Court that in so far as the submission recorded in the Sessions Court order that there are 24 antecedents against the present Applicant is concerned, same cannot be substantiated as there are no antecedents against the Applicant. I have also in my order dated 06.01.2025 delineated herein above observed the circumstances in which the said incident had occurred which was as a result of two specific precursor incidents, first on the previous date and second on the same date in the morning at 7:00 a.m. In the first precursor incident, it is seen that a quarrel ensued between the victim / deceased and his wife when the victim accused his wife of infidelity and beat her. At that time son of the victim intervened but he was also beaten up. The same issue and incident

got repeated on the next day in the morning at 7:00 a.m. when once again quarrel ensued between the victim and his wife. It is seen that at that time, when the son of victim attempted to once again intervene in the quarrel, he was slashed by a blade on his back by the victim and thereafter he was shifted to J.J. Hospital for treatment. It is only on the backdrop of the aforesaid two incidents, and the cause of the same led to the grave provocation leading to the assault by a singular blow of 'sil batta' (पाटा) which was available in the house at that time. The extreme provocation took place for which the deceased had accused his wife of infidelity. The incident in question cannot be said to be a pre-meditated act by the Applicant. Applicant is the brother of the wife of the victim. Applicant has been incarcerated in prison for the past five years. The Supreme Court has clearly opined that long incarceration of the under-trial would undoubtedly affect his personal liberty. In the facts of the present case the act of Applicant was in view of the extreme and grave provocation due to the serious accusation made by the deceased against his own wife of having illicit relationship with her own brother being the reason which has been noted by the prosecution. Taking an overall view of the matter and considering no antecedents of the Applicant and the long incarceration of Applicant, present Bail Application is allowed in terms of prayer clause (a) and (b) on the following conditions:-

- (i) Applicant be released on bail on furnishing a PR bond of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of the concerned Police Station once every month on the first Monday between 10:00 a.m. to 12:00 p.m.;
- (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 revocation of this order;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (v) Applicant shall not influence with 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, as applicable;

(vi) Any infraction of the conditions shall entail revocation of this order.

4. Parties to act on a server copy of this order.

5. Bail Application is allowed and disposed in view of the above terms.

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[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
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