

VRJ

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

BAIL APPLICATION NO.4738 OF 2024

VAIBHAV
RAMESH
JADHAV

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Divine Telles Gonsalvis

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Shaikh Ebaad with Ms. Shaikh Rukhsar for the applicant.

Ms. Supriya Kak, APP for the State.

Mr. Y. N. Jadhav, PSI, Vithalwadi Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 11, 2025

P.C.:

1. This is an application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on bail in connection with Crime Register No.248 of 2021 registered with Vithalwadi Police Station for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860.

2. As per the prosecution case, the informant's husband had left their residence on 27th August 2021 at around 9:00 a.m. to go to work. However, he did not return home thereafter. Initially, the informant lodged a missing person report at Rabale Police Station, which was registered as Missing Case No.126 of 2021. Later, the dead body of her husband was discovered floating in a water tank

located near the cremation ground at Chinchpada, which falls under the jurisdiction of Vithalwadi Police Station. Initially, an accidental death report was registered as ADR No.62 of 2021. However, based on further suspicion and upon noticing injury marks on the deceased, the informant approached the police again, alleging that her husband had been killed by cutting his throat with a sharp weapon and that the dead body was dumped in the tank with the intention to destroy the evidence of the crime.

3. Upon receipt of the said report, the police commenced investigation. During the course of investigation, the applicant and a co-accused came to be arrested in connection with the offence. The applicant was taken into custody on 3rd September 2021. Upon completion of investigation, the investigating agency filed the charge sheet on 13th January 2022.

4. The applicant had earlier moved the Sessions Court at Kalyan for bail. However, the learned Sessions Judge rejected the said application. Hence, the applicant has now approached this Court seeking bail by filing the present application under Section 439 Cr.P.C.

5. Learned advocate appearing on behalf of the applicant has invited this Court's attention to the material forming part of the charge sheet, more particularly the statements recorded by the investigating officer. It is submitted that the only circumstance against the applicant is that he was allegedly last seen together with accused No.1 on the day of the incident, i.e., on 27th August 2021, as per CCTV footage. However, it is pointed out that the

deceased was last seen only with accused No.1 and not with the present applicant. The learned counsel has further submitted that the alleged recovery of knife from the applicant, without any other direct incriminating material connecting him with the actual act of murder, is not sufficient to deny bail, especially when the entire case is based on circumstantial evidence. It is also submitted that the applicant has been in custody since 3rd September 2021 and has completed more than three and a half years in jail without conclusion of trial. Hence, the learned counsel prayed for grant of bail.

6. On the other hand, learned APP has strongly opposed the application. It is submitted that the offence in question is of a serious nature, as it involves the murder of a person. The prosecution has relied upon CCTV footage, which shows both accused Nos.1 and 2 together on the relevant date. Further, the knife alleged to have been used in the crime has been recovered at the instance of the present applicant. These circumstances, it is contended, are sufficient at this stage to show the involvement of the applicant. The learned APP therefore submitted that considering the gravity of the offence and the material on record, no case for grant of bail is made out.

7. I have carefully gone through the charge sheet filed by the investigating officer, including the statements of witnesses and the transcript of the CCTV footage annexed to the record. On a prima facie reading of the material, it appears that one day before the recovery of the deceased's body, accused No.1 was seen in the CCTV footage in the company of the deceased at Kalyan railway

station. As far as the present applicant is concerned, the only allegation emerging from the material is that he was seen in the company of accused No.1. However, it is important to note that the CCTV footage relied upon by the prosecution does not clearly establish the presence of the applicant along with the deceased at the relevant time. The circumstance of 'last seen together'—which is often considered an important link in the chain of circumstantial evidence—is, in this case, not directly attributable to the applicant at this stage.

8. Furthermore, while the prosecution has referred to recovery of a knife allegedly at the instance of the applicant, it is well settled that recovery by itself, without any other corroborative evidence linking the applicant to the actual commission of the offence, may not be sufficient to justify prolonged detention pending trial, particularly when the case is based entirely on circumstantial evidence. It is also to be noted that the applicant has been in judicial custody since 3rd September 2021. Despite lapse of over three and a half years, the charges are yet to be framed and there is no indication as to when the trial is likely to commence or conclude. The right to speedy trial is a facet of the right to life and personal liberty under Article 21 of the Constitution of India, and cannot be overlooked when considering bail applications.

9. In view of the above facts and circumstances, and considering the period of incarceration undergone by the applicant, and the nature of material presently available on record, I am of the opinion that the applicant has made out a prima facie

case for being released on bail, subject to conditions to ensure his availability for trial and to prevent tampering with evidence.

10. Hence, the following order is passed:

11. The applicant shall be released on bail in connection with Crime Register No.248 of 2021 registered with Vithalwadi Police Station, upon furnishing a personal bond of ₹25,000/- (Rupees Twenty-Five Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with the prosecution evidence or attempt to contact, threaten, or influence any prosecution witness in any manner;

(b) The applicant shall regularly remain present before the Trial Court on all dates of hearing unless prevented by genuine or sufficient cause, in which case he shall obtain exemption from the Court;

(c) The applicant shall not leave the territorial jurisdiction of the concerned Trial Court without obtaining prior permission;

(d) The applicant shall not commit any offence or involve himself in any criminal activity during the pendency of the trial.

12. Bail application is accordingly disposed of in the above terms.

(AMIT BORKAR, J.)