

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 5153 OF 2024

Imran Kayyum Khan

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Ms. Anjali Patil a/w. Mr. Tohid Shaikh, Advocates for Applicant.
 - Ms. Mahalakshmi Ganapathy, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 28, 2025.

P.C.:

1. Heard Mr. Patil, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.407 of 2022 registered with Mumbra Police Station for the offence punishable under Section 302 of the Indian Penal Code, 1830 (for short '**IPC**'). In the present Crime Applicant is incarcerated since 10.05.2022.

3. On 04.04.2025, after hearing the learned Advocate for Applicant, the following order was passed:-

"1. Heard Mr. Shaikh, learned Advocate for Applicant and Ms. Ganapathy, learned APP for State.

2. Prima facie it is seen that Applicant is suffering a medical

condition namely tumor. In that view of the matter present Application shall be heard on the next adjourned date on merits. Applicant is incarcerated since 10.05.2022. Charge has been framed. Trial has not commenced.

3. Applicant is the step-son of the deceased victim. Mr. Shaikh, learned Advocate for Applicant would submit that incident which has occurred leading to fatality of the victim - step-mother was on account of a sudden provocation happening at the spur of the moment. He would submit that Applicant was a school bus driver and he suspected that his step-mother used to feed information against him to his father. On the fateful day Applicant wanted to take his sister out and when he sought permission from his father but he refused and asked them to return back to the house. Applicant suspected that his step-mother had fed his father's ears due to which his father reprimanded him. On his return to the house he encountered his step-mother outside the house as she was leaving and persuaded her to come inside the house in order to talk to her. A verbal altercation and quarrel ensued between them inside the house in front of his sister and in a fit of rage and anger Applicant picked up a kitchen knife from the house and inflicted a singular blow on the victim – step-mother.

4. My attention is drawn by Mr. Shaikh to the order dated 9th January, 2024 appended at page No.154 of the Application which is the rejection order of previous Bail Application of Applicant. In that order this Court has observed that if the trial would not be completed within a period of one year, Applicant would have liberty to approach this Court. In that order this Court also directed the trial Court to commence and complete the trial within a period of one year from the date of that order. Therefore, Applicant has approached this Court. It is however informed that trial has not yet commenced rather is at a complete standstill as it is from the date of passing of the previous order. Applicant undoubtedly would be entitled to Bail considering the aforesaid facts.

5. Learned APP is directed to ascertain veracity of the aforesaid facts and apprise the same to the Court on the next adjourned date. This Application shall be considered for hearing and disposal on the next adjourned date which shall be noted by the prosecution.

6. Stand over to 9th April, 2025 (at 02:30 pm)."

4. *Prima facie* it is seen that in the case emanating from the prosecution record and as delineated herein above, no substantial progress has been made by prosecution with respect to the trial.

5. Hence, in view of the order dated 09.01.2024 appended at page No.154, I am inclined to consider the case of Applicant for grant of bail as the same situation prevails as on today. Without delineating any opinion on the merits and the reasons stated in the aforesaid order, Applicant is directed to be released on bail.

6. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- (ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) Applicant is prohibited from entering the jurisdiction of Jamdar Nagar area in Mumbra until the completion of trial;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark

his presence. If the first Tuesday of the said month falls on a holiday and/or non Court working day, the Applicant shall mark presence on the next working day;

- (vi) 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;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

7. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

8. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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