

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.5245 OF 2024

Krushna @ Amol Angad Pandhare ...Applicant

Versus

State of Maharashtra ...Respondents

WITH

INTERIM APPLICATION NO.579 OF 2025

IN

CRIMINAL BAIL APPLICATION NO.5245 OF 2024

Rajendra Hanumant Pawar ...Applicant

IN THE MATTER BETWEEN:

Krushna @ Amol Angad Pandhare ...Applicant

Versus

State of Maharashtra ...Respondents

Mr. Tejas Hilage, for the Applicant in BA/5245/2024.

Mr. Mallikarjun Kawaddevi, for the Intervenor in IA/579/2025.

Ms. A. S. Gotad, APP for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 7th MAY 2025

P.C.:

1. Heard Mr. Hilage, learned Counsel appearing for the Applicant, Mr. Kawaddevi, learned Counsel appearing for the Intervenor and Ms. Gotad, learned APP for the Respondent-State.

2. This is a second Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973* (“**Cr.PC.**”). The first Criminal Bail Application bearing Bail Application No.3668 of 2023 was allowed to be withdrawn by Order dated 13th February 2024 passed by this Court with liberty to file fresh Bail Application after a period of 8 months, if there is

no substantial progress in the Trial. Pursuant to the said liebery, the Applicant has filed the present Bail Application.

3. The relevant details are as under:-

1	C. R. No.	338/2023
2	Date of registration of F.I.R.	14/05/2023
3	Name of Police Station	Mohol Police Station, District-Solapur
4	Section/s invoked	U/Sections 302, 201, 34, 120(B) of the I.P.C., 1860
5	Date of incident	26/04/2023
6	Date of arrest	14/05/2023
7	Date of filing Charge-sheet	07/08/2023

4. It is the prosecution's case that the Applicant had relationship outside marriage with the wife of deceased and on 26th April 2023 the Applicant, with the help of wife of the deceased, killed the deceased and disposed of the dead body of the deceased by throwing it in a nearby canal by carrying it in a big vehicle. As already noted herein above the earlier Bail Application had been allowed to be withdrawn and therefore as far as merits are concerned this Court has already dismissed the Bail Application as withdrawn.

5. It is only contention of Mr. Hilage, learned Counsel appearing for the Applicant that a specific liberty has been granted by earlier order dated 13th February 2024 to file a fresh Bail Application after a period of

8 months, if there is no substantial progress in the trial. He submits that the trial will take considerable time and therefore the Applicant be enlarged on bail. To substantiate said contention, he has relied on the judgment of the Supreme Court in the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra**¹ and also in the case of *Sheikh Javed Iqbal v. State of Uttar Pradesh*².

6. On the other hand, Ms. Gotad, learned APP and Mr. Mallikarjun Kawaddevi, learned Counsel appearing for the Intervenor submits that trial has almost completed. Both of them state that 12 witnesses have been examined and only 3 or 4 more witnesses have remained to be examined. Ms. Gotad, learned APP states that the State of Maharashtra will take steps to conclude the trial expeditiously. Learned APP also relies on the judgment of Supreme Court in the case of *X v. State of Rajasthan*³ Both of them state that the Bail Application be rejected.

7. As far as judgment of the Supreme Court in the case of **Javed Gulam** (*supra*) is concerned Paragraph Nos.18 to 20 are relevant which reads as under:-

“18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is

1 2024 SCC OnLine SC 1693

2 (2024) 8 SCC 293

3 (2024) SCC OnLine 3539

committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

(Emphasis added)

8. In so far as the Judgment of the Supreme Court in the case of ***Sheikh Javed Iqbal*** (supra) is concerned, the Paragraph No.42 reads as under:-

“42. This Court has, time and again, emphasised that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused-undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a

constitutional court may decline to grant bail. But it would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb¹² being rendered by a three-Judge Bench is binding on a Bench of two Judges like us.”

9. Learned APP and learned Counsel appearing for the Intervenor has relied on the judgment of Supreme Court in the case of *X v. State of Rajasthan* (supra) wherein Paragraph No.14 to 16 reads as under:-

“14 Ordinarily in serious offences like rape, murder, dacoity etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

(Emphasis added)

10. Perusal of the record shows that this is a serious crime where serious offence is registered against the deceased. As the Applicant had illicit relationship with the wife of the deceased, it is the allegation that the Applicant committed murder of the deceased and thereafter disposed of the dead body of the deceased. The trial has almost come to an end. In the trial 12 witnesses have been examined including son of the deceased and only 3 to 4 more witnesses are going to be examined.

11. The offence is under Sections 302, 201, 34, 120(B) of *Indian Penal Code, 1860* (“**IPC**”) therefore even assuming that the Applicant is entitled for bail under Section 436(a) of CrPC, then also the said Section provides that benefit should be given to the accused if accused has completed his half of the punishment. In this particular case the Applicant was arrested on 14th May 2023. Thus, Applicant is behind bar for about 2 years. The trial is on the verge of completion. Accordingly, no case is made out for grant bail. The Bail Application is rejected.

12. As the Bail Application is disposed of nothing survives in the Interim Application and the same is also disposed of.

13. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]