

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.5360 OF 2024

Gokul Tongal Sonvane	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Aniket Vagal a/w. Mr. Kunal N. Pednekar and Ms. Savvy Kolhekar, Advocates, for the Applicant.
 Ms. S.G.Talhar APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 31 JANUARY 2025

P. C.:

1. Heard Mr. Vagal, learned Counsel appearing for the Applicant and Ms. Talhar, learned APP appearing for the Respondent-State.

2. This is a Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The Applicant is Accused No.1.

3. The relevant details are as follows:

1	C. R. No.	59 of 2022
2	Date of registration of F.I.R.	11/02/2022
3	Name of Police Station	Deola Police Station, Nashik.
4	Section/s invoked	307 r/w. 34 of the Indian Penal Code, 1860

5	Date of incident	11/02/2022
6	Date of arrest	11/02/2022
7	Date of filing of Charge-sheet	10/05/2022
8	Offences as per the Charge-sheet	302, 307, 143, 147 & 149 of the Indian Penal Code, 1860

4. As per the prosecution case, there are total five accused involved in the crime. All these five accused are the members of the same family. The present Applicant is the Accused No.1, the Accused Nos.2 and 3 are the sons of the Applicant and the Accused No.5 is the wife of the present Applicant. All of them are incarcerated since 11th February 2022 i.e. on the date on which the incident in question took place.

5. Mr. Vagal, learned Counsel appearing for the Applicant states that the Accused No.3 - Prasad Gokul Sonawane has been released on bail by order dated 9th October 2024 passed in Criminal Bail Application No.3996 of 2024. He further submits that the Accused No.5 has been released on bail by this Court by Order dated 2nd December 2024 passed in Criminal Bail Application No.4829 of 2024. It is the further submission of Mr. Vagal, learned Counsel that the Applicant is a senior citizen of 64 years.

6. As per the prosecution case, prior to the incident, the deceased was in a romantic relationship with the Accused No.4-Kalyani for about 7 years. However, the present Applicant i.e. Accused No.1-Gokul opposed the said relationship and therefore, four months prior to the incident in question the Accused No.4-Kalyani was not on talking terms with the deceased. The Accused No.1-Gokul was having suspicion that the deceased broke up Kalyani's marriage i.e. his daughter's marriage, therefore the incident in question took place.

7. As per the prosecution case, the Accused No.2 assaulted the deceased on his head with an iron pipe and the Accused No.3 assaulted the deceased on his head with an iron rod. The Accused No.1-Gokul (present Applicant) caught hold of the deceased, Accused No.5-Nirmal poured petrol on the deceased and Accused No.4-Kalyani set the deceased on fire. As per the Post-mortem Examination Report, deceased sustained 78% burns and opinion as to the probable cause of death as recorded in Post-mortem Examination Report at Page No.115 is as follows:

8. “DEATH IS DUE TO COMBINED EFFECT OF SHOCK DUE TO BURNS WITH HEAD INJURY, WHICH ARE SUFFICIENT TO CAUSED DEATH INDIVIDUALLY AND COLLECTIVELY.

9. ALL INJURIES ARE ANTE MORTEM IN NATURE AND FRESH IN DURATION.

10. BURN INJURIES ARE CAUSED BY FLAME BURNS AND INJURIES NO.2 AND 3 MENTION IN COLUMN NO.17 ARE CAUSED BY HARD AND HEAVY OBJECT OR SURFACE.”

11. Mr. Vagal, learned Counsel appearing for the Applicant submitted that the Applicant is a senior citizen of 64 years. The Applicant and co-accused are incarcerated since 11th February 2022. He submitted that although the charge has been framed on 29th August 2022, till date there is no further progress in the trial. As per the prosecution case, there are 26 witnesses proposed to be examined by the prosecution. Therefore, the trial will take considerable time to conclude. He therefore, submitted that the Applicant is entitled to be released on bail on the ground of long incarceration.

12. On the other hand, Ms. Talhar, learned APP for the Respondent-State strongly opposed the Bail Application. She

submitted that there are eye-witnesses to the incident. She pointed out the statement of Sandeep Kashinath Bacchav recorded on 15th February 2022. She submitted that there are other eye-witnesses to the incident. She pointed out the Post-mortem Examination Report and submitted that the deceased had sustained 78% burns. She submitted that the cause of death is combined effect of shock due to burns with head injury. She submitted that the present Applicant had caught hold of the deceased when the incident took place and therefore, major role is played by the Applicant. She therefore submitted that the Bail Application be rejected. On instructions, she submitted that there are no criminal antecedents against the Applicant.

13. Perusal of the record shows that the incident in question took place on 11th February 2022, F.I.R. was lodged on 11th February 2022, the Applicant was arrested on 11th February 2022 and the Charge-sheet was filed on 10th May 2022. There is no progress in the trial except framing of the charge on 29th August 2022. For more than about 2 years and 6 months after framing of the charge, not a single witness has been examined. As per the Charge-sheet, there are 26 witnesses proposed to be examined by

the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

14. The Applicant is a senior citizen of aged 64 years. There are no criminal antecedents against the present Applicant. The Applicant is incarcerated for about 3 years.

15. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ If the Applicant’s detention is continues, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial. Therefore, the Applicant is entitled for bail.

16. The Applicant does not appear to be at risk of flight.

17. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

18. In view thereof, the following order:-

ORDER

- (a) The Applicant – Gokul Tongal Sonvane be released on bail in connection with C.R. No.59 of 2022 registered with the Deola Police Station, District - Nashik on her furnishing P.R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- (b) On being released on bail, the Applicant shall furnish her cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall report to the Deola Police Station, District – Nashik once in 15 days i.e. on 1st and 3rd Monday between 11.00 a.m. and 2.00 p.m.
- (d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person

acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender her passport, if any, to the Investigating Officer.

19. The Bail Application is disposed of accordingly.

20. 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.]