

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

**Interim Application No.3369 of 2024
In
Criminal Appeal No. 975 of 2024**

Gotya @ Devendra Ashok Mane ... Applicant
V/s.
State of Maharashtra and anr. ... Respondents.

Ms. Vrushali Maindad a/w. Shaheen Kapadia a/w. Ms. Simran Raut
for the Applicant.

Smt. M.H. Mhatre, APP for the State.

**CORAM : SARANG V. KOTWAL
& S.M. MODAK, JJ.**

DATE : 15 January 2025.

P.C. :

This is an application for bail during pendency of the applicant's Criminal Appeal No.975/2024. The applicant was the original accused No.4 in Sessions Case No.20/2012 before the Additional Sessions Judge, Pune. The learned Judge vide his judgment and order dated 25th August 2023 convicted accused for commission of offence punishable under Sections 302,364,120-B,143,147,149,201 read with Section 34 of IPC. The major sentence imposed by the Court was life imprisonment.

2. As mentioned earlier, the applicant was accused No.4. The prosecution case in brief is that:

One 'R' was in love relationship with the deceased Pratik in this case. The accused No.1 Pravin was also interested in 'R'. He looked at Pratik as an obstacle in his friendship with 'R'. Therefore, with the help of other accused he committed Pratik's murder. Pratik was missing from evening of 23rd September 2011. For that purpose, missing report was lodged by his family. During inquiry of that report, the police officers attached to Vishrantwadi police station made inquiries with the main accused i.e. accused No.1-Pravin who led them to the spot in the vicinity of Shikrapur where the burnt dead body of deceased was found on 26 September 2011. The postmortem report shows cause of death was due to throttling and head injury. On this basis the investigation commenced and charge-sheet was filed. There were five accused as mentioned earlier. All of them were convicted. The prosecution case is that the accused Nos.2 to 4 traveled together. They abducted the deceased, took him to the spot near Shikrapur and committed his murder by throttling and then tried to burn his body.

3. Learned Counsel for the applicant submitted that he was on bail during trial. She heavily relied on the two orders passed granting bail to the co-accused. The first order was the order dated 1st August 2024 in Interim Application No.1156/2024 in Criminal Appeal No.399/2024 by which the accused No.2-Yashwant was granted bail. The second order was dated 9th August 2024 in Interim Application No.490/2024 in Criminal Appeal No.796/2024 by which the same co-ordinate Bench granted bail to the original

accused No.3. She claimed parity by seeking bail for the present applicant.

4. Learned APP could not distinguish the role and material against those two co-accused i.e. accused Nos.2 and 3 and the role and material against the present applicant. Therefore, on the principles of parity the applicant deserves to be released on bail. The only material against the applicant and those two co-accused was the CDR which shows that accused No.1 to 4 were constantly in touch with each other. The motive as earlier was attributed only to accused No.1-Pravin. The order granting bail to the co-accused have also referred to that particular case. Thus, it can be seen that the principles of parity will apply in the case of present applicant. He was on bail during trial and there are no allegations that he has misused that liberty.

5. Learned APP submitted that the location of the mobile phones of the accused as well as deceased was from the same place during night between 21st September 2011 to 24th September 2011. However, this submission will apply to the other co-accused also who are granted bail. Learned Counsel submitted that there are observations in the orders granting bail to the co-accused that the phones numbers in question did not stand in their names. Similar is the case of the present applicant and the mobile phone which is considered as a prosecution evidence did not stand in his name.

6. In this view of the matter, the applicant be released on bail.

Hence, following order:

ORDER

- 1) During pendency and final disposal of Criminal Appeal No.975/24, the applicant-Gotya @ Devendra Ashok Mane is directed to be released on bail on his executing PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- 2) Interim Application is disposed of.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J)