



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.735 OF 2025**

Sanket @ Sunny Pawar	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Sameer D. Hatle with Mr. Prathamesh Fernandes, for Applicant.
Mr. Yogesh Dabke, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 22 APRIL 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.444 of 2022, registered with Koparkhairane Police Station for an offence punishable under Section 302 of the Indian Penal Code, 1860, has preferred this application to enlarge him on bail.
3. The applicant and three children in conflict with law allegedly entered into a conspiracy to eliminate Sahil Shantaram Gole, the deceased, as the latter had assaulted one of the child in conflict with law and had bullied the applicant and those children in conflict with law. On the night intervening 18 and 19 October 2022, the deceased was allegedly seen in the company of the applicant and the children in conflict with law. In the morning of 19 October 2022, an information was received by the Beat Marshal that deadbody of a person was lying near Bhoomi Putra Ground, Sector 22, Kopar Khairane,

Navi Mumbai. The deadbody was identified to that of the deceased Sahil Gole. The face of the deceased was crushed with a heavy object. There was a stab injury on the person of the deceased.

4. The applicant and the children in conflict with law were apprehended. During the course of investigation, the applicant allegedly made discovery leading to the recovery of an iron rod by means of which the deceased was killed. Post completion of investigation, chargesheet came to be lodged against the applicant.

5. This is a second application for bail. First bail application i.e. BA No.2794 of 2023, came to be dismissed as withdrawn by an order dated 23 January 2024. However, this Court had requested learned Sessions Judge seized with Sessions Case arising out of C.R.No.444 of 2022 to make an endeavour to commence and conclude the trial in the said case as expeditiously as possible and preferably within a period of one year from the date of communication of the said order.

6. The applicant had approached this Court as there has not been any progress in the trial, in as much as, charge has not been framed.

7. Learned Counsel for the Applicant submitted that the applicant has been in custody for more than two and half years. The case rests on circumstantial evidence. There is nothing to connect the applicant with the alleged offence. Three children in conflict with law have already been

enlarged on bail. At the time of the alleged occurrence, the applicant was 20 years of age. Therefore, in the absence of a prospect of conclusion of the trial in near future, the further detention of the applicant is unwarranted.

8. Mr. Dabke, learned APP, on the other hand, resisted the prayer for bail. It was submitted that there are statements of witnesses which indicate that the deceased was last seen in the company of the applicant and the children in conflict with law. There are CCTV footages which depict the fact that the deceased was in the company of the applicant before the occurrence. Moreover, there is recovery of the weapon of the offence pursuant to the discovery made by the applicant. In these circumstances, according to the learned APP, the applicant does not deserve to be enlarged on bail. At the most, the trial can be expedited.

9. I have perused the material on record. The prosecution case rests on circumstantial evidence. The circumstances arrayed against the applicant are that, firstly, the deceased was seen in the company of the applicant at about 11.00 p.m. on the night of the occurrence and two of the witnesses have stated that the deceased had informed them that he was going to the house of the applicant. Second, the applicant made discovery leading to the recovery of the weapon of the offence.

10. It is trite, circumstantial evidence should lead to no other hypothesis than the guilt of the applicant. In the case at hand, the first circumstance

does not seem to have prima facie conclusive incriminating tendency as the deceased was seen in the company of other persons as well. That leaves discovery allegedly made by the applicant leading to the recovery of the weapon of the offence. Having regard to the nature of the other circumstances pressed into service against the applicant, the recovery of the weapon of the offence at the instance of the applicant appears to be of subsidiary nature and may not be a sturdy ground to detain the applicant as an under-trial prisoner, especially when despite the directions of the Court to commence and conclude the trial, even charge could not be framed.

11. Thus, having regard to the pace which the proceedings before the learned Sessions Judge have proceeded, it is extremely unlikely that the trial can be concluded within a reasonable period. Cumulatively, the nature of the material pressed into service against the applicant, the circumstances of the case, the age of the applicant and the unlikelihood of the conclusion of the trial within a reasonable period, persuade this Court to exercise discretion in favour of the applicant.

12. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Sanket @ Sunny Pawar be released on bail in C.R.No.444 of 2022 registered with Kopar Khairane Police Station, Navi

Mumbai, on furnishing a PR bond in the sum of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before Kopar Khairane Police Station, on first Monday of every month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. 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 him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)