

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.942 OF 2025

Kalpesh Ashok Kalambe	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. B.L. Jagtap i/by Mr. Ashish Jagtap, Advocate for Applicant.
 - Ms. Shilpa K. Gajare-Dhumal, APP for State.
 - PSI – Kishor Desai, Dindoshi Police Station, Mumbai, present.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 25, 2025

P. C.:

1. Heard Mr. Jagtap, learned Advocate for Applicant and Ms. Gajare-Dhumal, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No.205 of 2020 registered with Dindoshi Police Station for the offence punishable under Section 302 read with 34 of the Indian Penal Code, 1860 (for short, "**IPC**"). Applicant came to be arrested on 27.05.2020 and is incarcerated in prison since then. Date of incidence is 26.05.2020.

3. Case of the prosecution is based on circumstantial evidence primarily because the FIR was lodged against unknown persons. 4 specific statements of eye witnesses have been recorded which are appended at page No.47 onwards.

3.1. One eye witness statement states that he has seen two persons arriving on a motorcycle in the dead of the night and the pillion rider got down and caught hold of the victim and inflicted knife blows on him and thereafter left the incident spot on the motorcycle alongwith its rider. That statement is appended at page No.49.

3.2. Whereas another statement which the prosecution is relying upon is the statement of the friend of Applicant appended at page No.53 of the Application wherein he has stated that prior to her marriage many years ago she was having friendship with the victim but after her marriage and after she had daughter who was 7 years old the victim was still pursuing and harassing her and therefore she complained about the harassment meted out to her by the victim to the Applicant who was her common friend.

4. *Prima facie* apart from the aforesaid two statements it is seen that prosecution has not conducted the Test Identification parade to identify the Applicant.

5. At this stage of bail the aforesaid evidence of the prosecution being circumstantial evidence and a humongous period of incarceration of 4 years 10 months and 29 days suffered by the Applicant pending trial impels me to consider the case of Applicant for

grant of bail. Charge has been framed on 28.02.2024 and thereafter trial is at a complete standstill.

6. Learned Prosecutor has opposed grant of bail in view of the gravity of the offence and recovery of knife from the Applicant. It is fairly informed to the Court that the co-accused person has already been enlarged on bail. However, in view of the long incarceration of the Applicant for 4 years 10 months and 29 days his application is considered by the Court for grant of bail.

7. 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.25,000/- with one or two sureties in the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) 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;

(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 01.00 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.

8. 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.

9. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]