

Shabnoor

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

BAIL APPLICATION NO. 4182 OF 2024

Komal Sushil Kothere	... Applicant
V/s.	
State of Maharashtra	... Respondent

SHABNOOR
AYUB
PATHAN

Digitally signed by
SHABNOOR AYUB
PATHAN
Date: 2025.07.30
15:35:42 +0530

**WITH
INTERIM APPLICATION NO.381 OF 2025
IN
BAIL APPLICATION NO. 4182 OF 2024**

Nanda Praji Kothere	... Applicant
In the matter between	
Komal Sushil Kothere	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Vaibhav Kadam a/w Pooja Nikam a/w Aditya Thorat a/w Shrimath Badade a/w Vedika Bhoir a/w Shweta Jadhav, for the applicant.

Mrs. Rajashree V. Newton, APP for the State – respondent.

Mr. Vinod Shinde, PSI, Kasara Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 30, 2025

P.C.:

1. The present application is filed by the applicant seeking regular bail under Section 439 of the Code of Criminal Procedure, 1973. The applicant is arrested in connection with Crime Register No.74 of 2023, registered with Kasara Police Station for offences

punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, one unidentified and decomposed dead body of a male person was discovered in the mountainous region of Kasara. Upon further investigation, it came to light that the present applicant had lodged a missing person complaint in respect of her husband, who was later identified as the deceased. The prosecution alleges that such missing report was not genuine but filed deliberately by the applicant to mislead the investigating agency.

3. The prosecution further alleges that the applicant was maintaining an extramarital relationship with one of the co-accused, namely Monukumar Kharwar. The deceased husband had knowledge of this relationship, and frequent quarrels used to take place between them on that count. It is alleged that in order to eliminate the obstruction caused by the husband and to continue her illicit relationship without interference, the applicant conspired with the said co-accused and hatched a plan to murder him.

4. On the night of the incident, it is alleged that the applicant purposely left the main door of the house open to facilitate entry of the co-accused. In the dead of night, Monukumar and his associate Abhishek allegedly entered the house and assaulted the deceased on the head with an iron rod, causing profuse bleeding. Thereafter, they are said to have carried the injured husband in a tempo to a remote hilly area in Kasara and threw his body there.

5. It is further alleged that the two co-accused returned to the

spot after some time to verify whether the deceased was dead. Upon finding that he was still breathing, they allegedly strangled him using a wire and subsequently hit him with heavy stones on the head and back, resulting in his death. Based on these allegations, a First Information Report was registered against the present applicant and the two co-accused.

6. Learned counsel appearing for the applicant submitted that the entire case of the prosecution is based on circumstantial evidence. The only material relied upon by the prosecution against the applicant is the alleged motive, i.e., her illicit relationship with the co-accused, and the call detail records which suggest communication between the applicant and the co-accused on the day the deceased went missing.

7. It is further submitted that although the daughter of the applicant has given a statement that the co-accused persons were present on the day the deceased went missing, no Test Identification Parade (TIP) was conducted to confirm their identity. It is therefore argued that in absence of any direct evidence, the applicant's continued detention during trial is not justified. The learned advocate prayed that the applicant be released on bail, subject to appropriate conditions.

8. On the other hand, learned APP has strongly opposed the bail application. It is submitted that the applicant has given three different statements about the circumstances of her husband's disappearance, and in each of them, material discrepancies are found. This, according to the prosecution, shows that the applicant

attempted to conceal the true facts and mislead the investigation.

9. The learned APP further relied on the statement of the applicant's daughter, which mentions that the co-accused persons were present at the house on the day of the quarrel between the applicant and the deceased. It is argued that this clearly shows the involvement of the applicant in planning the offence. According to the prosecution, the applicant was the mastermind of the entire episode and her conduct, before and after the incident, reflects a deliberate and calculated approach to eliminate her husband.

10. I have given thoughtful consideration to the submissions advanced by the learned counsel for the applicant as well as the learned APP. I have also perused the material placed on record, including the statements of witnesses and the nature of allegations made against the applicant.

11. At the outset, it is to be noted that the case of the prosecution rests entirely on circumstantial evidence. There is no direct eye-witness account implicating the applicant in the act of murder. The prosecution relies on motive arising out of the applicant's alleged extramarital relationship and the conduct of the applicant in allegedly facilitating entry of the co-accused. However, mere motive or illicit relationship, by itself, is not sufficient to establish guilt, unless accompanied by other cogent and corroborative material indicating the applicant's active participation in the crime.

12. It is also pertinent to observe that the Test Identification Parade (TIP) of the co-accused, who are alleged to have physically

assaulted the deceased, was not conducted, even though the daughter of the deceased made a statement suggesting their presence on the relevant night. The absence of TIP diminishes the evidentiary value of the statement linking the co-accused and, by extension, the applicant.

13. As far as the call detail records (CDR) are concerned, it merely shows telephonic contact between the applicant and co-accused. Such evidence, without more, cannot be construed as sufficient to draw an inference of conspiracy or involvement in the act of murder, particularly when the applicant was not present at the spot where the actual assault and murder took place.

14. Another aspect which merits consideration is that the applicant is a woman, and there is no previous criminal antecedent reported against her. She has been in custody since her arrest and the charge-sheet has already been filed. Therefore, her further custodial interrogation is not necessary.

15. The offence alleged is undoubtedly grave and serious. However, gravity alone cannot be the sole ground to deny bail, especially when the evidence against the applicant is largely circumstantial, and when her continued incarceration may not serve any further purpose at this stage.

16. Furthermore, the applicant is a local resident and there is no material to show that she is likely to abscond or tamper with evidence, if released on appropriate conditions. The apprehension of the prosecution can be addressed by imposing suitable stringent conditions.

17. Considering the totality of circumstances, the nature of evidence against the applicant, the stage of the trial, and the fact that she is a woman, this Court is of the considered opinion that the applicant is entitled to be released on bail, subject to conditions that would ensure her presence during trial and protect the interest of justice.

18. In view of the above discussion, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 74 of 2023 registered with Kasara Police Station for offences punishable under Sections 302, 201 read with Section 34 of IPC, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(c) The applicant shall report to the Kasara Police Station on the first Monday of every month between 10.00 a.m. and

12.00 noon, until further orders.

(d) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(e) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

19. The Bail Application stands disposed of in above terms.

20. In view of disposal of the Bail Application, nothing survives the interim application. Hence, the interim application stands disposed of.

(AMIT BORKAR, J.)