

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLN. NO. 139 OF 2026

Rupesh Namdev Ghadage

VERSUS

The State Of Maharashtra And Anr.

Mr. Yash Fadtare, advocate for the applicant

Mr. S. H. Yadav, APP for the State

CORAM : SACHIN S. DESHMUKH, J.

DATE : 18<sup>th</sup> MARCH 2026.

**P.C.**

1. The applicant seeks regular bail in connection with C.R. No. 249/2023 dated 06/05/2023 registered with Vita Police Station, District Sangli for offences punishable under Sections 363 of the Indian Penal Code.

2. It is the case of prosecution that the informant is mother of deceased. On 06.05.2023 at about 3.00 p.m. son of the informant left the house. As the victim did not return home, informant went to the shop to inquire about her son. After searching at several places, since the victim was not traceable, informant approached Vita Police Station and lodged report. During investigation, it was revealed that the informant had illicit relations with the applicant and the victim was hurdle in their love relations. Therefore, the informant and the applicant hatched conspiracy to eliminate the victim. Accordingly,

applicant, in connivance with the informant abducted the victim with intention to commit murder and took him to a well on Lengare-Dhorle road and threw the victim in the well.

3. Learned counsel for the applicant submits that the applicant is innocent and falsely implicated in the crime. The co-accused is released on bail by this Court vide order dated 29/08/2024. The investigation is complete and there is no direct evidence against the applicant. Hence, prayed to allow the application.

4. Learned APP has opposed the application that the role of the applicant is distinct than that of the co-accused who is released on bail. Hence, applicant is not entitled for parity. Considering the evidence on record, a prima facie case is made out against the applicant. Hence, prayed to reject the application.

5. Having heard the submissions from both sides and upon perusal of the record including the charge-sheet prima facie indicates that the applicant allegedly had illicit relations with the informant/co-accused and thereby, committed murder of her son.

6. The Hon'ble Apex Court in case of **Kalyan Chandra Sarkar and Ors. Vs. Rajesh Ranjan and Ors. [(2004)7 SCC 528]**, while laying down the guidelines for grant or refusal of bail in serious offences like murder, has observed as under :

*“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*

*(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.*

*(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.*

*(c) Prima facie satisfaction of the court in*

*support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh and Puran v. Rambilas.)*

7. The Hon'ble Apex Court in the case of **Mahipal Vs. Rajesh Kumar and Ors. (AIR 2020 SC 670)** has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear prima facie case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offense.

8. Equally, the Hon'ble Apex Court in case of **State of UP through CBI Vs. Amaramani Tripathi [(2005)8 SCC 21]**, has held that the Court must evaluate the prima facie evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused. As stated earlier, the prosecution has collected overwhelming evidence against the present applicant.

9. Similarly, the Hon'ble Apex Court in case of **Pralhad Singh Bhati Vs. NCT, Delhi [(2001)4 SCC 280]**, held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied.

10. Similarly, the Hon'ble Apex Court in case of **Ram Govind Upadhyay Vs. Sudarshan Singh [(2002)3 SCC 598]**, has held that a

judicial discretion in granting bail must not be exercised whimsically, especially in heinous offences.

11. The Hon'ble Apex Court in case of **Prasanta Kumar Sarkar Vs. Ashis Chatterjee [(2010)14 SCC 496]**, has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

12. In **Neeru Yadav Vs. State of UP [(2016)15 SCC 422]**, the Hon'ble Apex Court has held that the Courts must not casually ignore the criminal antecedents of the accused and must remain vigilant in heinous offences. The same principles were again re-affirmed by the Hon'ble Apex Court in case of **Anil Kumar Yadav Vs. State (NCT of Delhi) [(2018)12 SCC 129]**.

13. Hon'ble Apex Court in case of **Satpal Singh Vs. State of Haryana [(2020)2 SCC 118]** that bail ought to be withheld, if prosecution has established the 'last seen together' circumstance alongwith corroborative material.

14. The Hon'ble Apex Court in case of **State of Bihar Vs. Amit Kumar [(2017)13 SCC 751]**, has held that delay especially in cases involving serious offences, cannot by itself be a ground for bail. In the present case, the trial is progressing and further the prosecution has

demonstrated the efforts to conclude the trial. Considering the seriousness of the offences involved, the overwhelming material weighs against the applicant.

15. In view of the aforesaid precedents, it is pertinent to note that there is a statement of witness prima facie supporting the theory of illicit relationship between the informant and the present applicant. The deceased child was last seen with the applicant and is later on discovered to be drown. Given the history of illicit relationship, there is motive on the part of the applicant.

16. As far as parity is concerned, perusal of the record indicates that the co-accused/informant is the mother of the deceased and is entitled for statutory protection being lady. Thus, applicant stands on a different footing than that of the co-accused.

17. Further perusal of records indicates that this is a successive bail application. Earlier application of the applicant came to be withdrawn with liberty to file afresh. Apart from delay in trial, no fresh grounds or change in circumstances are raised in the application, as such the applicant is not in a position to demonstrate change, much less, substantial one.

18. Therefore, in the light of aforesaid discussion and considering the gravity of the offence, as well as potential punishment for the crime, coupled with likelihood of the applicant fleeing away or evading the

trial, I am not inclined to exercise discretion in favour of the applicant.

19. Accordingly, the bail application is rejected.

(SACHIN S. DESHMUKH, J.)

IRESH  
MASHAL

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