

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4433 OF 2024

Prashant @ Babu Maruti Jabar	...Applicant
<i>Versus</i>	
The State of Maharashtra And Anr.	...Respondents

Mr. Mohd. Taha Khan a/w Ms. Sejal Jain i/b Ms. Monika Chippa,
for the Applicant.

Ms. Sangeeta D. Shinde, APP, for the Respondent - State.

Mr Viral Mukte, Appointed Advocate through Legal Aid for the
Respondent No.2 (Informant).

CORAM: R. M. JOSHI, J.

DATED: 8th APRIL, 2026

PC:-

1. Applicant seeks bail in connection with Crime No. 214 of 2023 registered with Chitalsar Police Station, District-Thane, for the offences punishable under Section 120(B), 302, 404 and 201 of the Indian Penal Code, 1860 (for short "IPC").

2. In short, it is a case of the prosecution that co-accused Gurunath was in need of money and hence entered into the agreement of sale with Akshay (deceased) of his house which stood in the name of his mother. It was agreed to be sold to deceased Akshay for a sum of Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand only). Accordingly notarised document was prepared of the transaction. It is further case of the prosecution that the amount was paid by Akshay to the mother of Accused

Gurunath, but the possession of the premises was not handed over to him. On 29th August 2023, Akshay was called by Gurunath in the evening for taking possession of the house in question. All accused were standing near TMC school and waiting for arrival of deceased Akshay. Deceased came alongwith witness Deepak Rajput to the said spot. Thereafter Akshay was taken by co-accused Gurunath and Karan alongwith them. There are allegations against the present Applicant that he alongwith the co-accused committed murder of the deceased Akshay and destructed the evidence of the crime. In connection with this crime, Applicant came to be arrested on 31st August 2023. On conclusion of investigation, chargesheet is filed.

3. Learned Counsel for the Applicant submits that except for the statement of the witness Deepak Rajput, there is no other evidence in order to even remotely connect the Applicant in crime. It is his submission that in fact the statement of Deepak shows that the Applicant had not been to the spot of the incident alongwith the co-accused and deceased. It is his submission that the statement of this witness excludes the involvement of the Applicant in this crime. Insofar as recovery of the motorcycle and footwear of the deceased, pursuant to the memorandum statement under Section 27 of the Evidence Act is concerned, he submits that there is no evidence to show that the motorcycle as well as footwear belonged to the deceased. He therefore submits that since the Applicant has no criminal history and as there is no evidence to connect him with the crime in question, he is entitled for bail.

4. Learned APP as well as learned Counsel for the Informant oppose grant of bail. It is their contention that there is evidence in the form of CDR indicating the presence of the Applicant at the spot of incident at the time of occurrence thereof. It is further argued by referring the statement of Deepak that this witness has dropped the Applicant at D-mart which is a place near to the place of incident. Further reference is made to the recovery at the instance of the Applicant i.e. motorcycle and footwear of deceased. On the basis of these submission, they seek dismissal of application.

5. In order to attribute the offence of murder, the prosecution must *prima facie* show his involvement in committing murder of the deceased. *Prima facie*, the statement of witness Deepak excludes Applicant's presence alongwith the co-accused and deceased. No doubt, the witness states about he being dropped deceased at D-mart and even accepting the same to be a place near to the place of incident, that by itself will not lead to the conclusion that the Applicant was a party to the murder. In fact this fact supports the case of the Applicant, as the CDR indicating his presence nearby the spot does not become incriminating circumstance against him. Apart from this *prima facie* perusal of the chargesheet does not indicates any further investigation being done with regard to the motorcycle as well as footwear to be belonging to the deceased. As such there is no evidence to call the recoveries at the instance of Applicant to be incriminating.

6. As such *prima facie* there is no evidence to show an involvement of the Applicant in the crime of murder. Applicant has no criminal history. He is not likely to flee from justice. Hence, order.

ORDER

- i) Criminal Bail Application stands allowed in connection with Crime No. 214 of 2023 registered with Chitalsar Police Station, District-Thane, for the offence punishable under Sections 120(B), 302, 404 and 201 of the Indian Penal Code, 1860.
- ii) The Applicant be enlarged on bail, on furnishing P. R. Bond of Rs.15,000/- with one surety in the like amount, to the satisfaction of the Trial Court.
- iii) The Applicant not to interfere in the evidence of prosecution, in any manner, whatsoever.
- iv) Applicant to attend all dates of hearing before the Trial Court, unless exempted by specific order.
- v) Any breach of the aforestated condition shall result forthwith into cancellation of bail.

7. In view of the above, Application stands allowed and disposed of accordingly.

8. It is clarified that the above observations are made on *prima facie* consideration of the material on record and the same shall not bind the parties during the final hearing of the Trial Case.

(R. M. JOSHI, J.)

VDMokal/-