

Akash

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2694 OF 2025

Kelvin Chindozie Okoro	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Prashant Pandey a/w Dinesh Jadhvani, Ridhima Mangaonkar,
Sumati Gupta, i/b W3LEGAL LLP, for the Applicant.
Mr. Ashok Gawai, APP for the Respondent - State.
Mr. Avinash Hatkhile, PSI, Waliv Police Station is present.

CORAM: R. M. JOSHI, J.

DATED: 17th MARCH, 2026.

PC:-

1. This is a Second Bail Application, seeking enlargement on bail in connection with Crime No.481 of 2022 registered with Waliv Police Station for the offences punishable under Sections 302, 364, 201, 149, 147 and 146 of Indian Penal Code, 1860 (for short "**IPC**") and Sections 14, 14(b) of the Foreigners Act and Sections 12(1)(a)(b) of the Passport Act.

2. Learned Counsel appearing for the applicant submits that even though there was rejection of the First Bail Application on merit by this Court by order dated 22nd June 2024, that would not become an impediment for grant of bail in view of the change in

circumstances. He places reliance on the orders passed by this Court in Bail Application Nos.1952 of 2025, 3258 of 2023, 426 of 2025, 1198 of 2025 and order passed by Hon'ble Supreme Court in Criminal Appeals No(s). No. 2814 - 2815 of 2024.

3. It is his submission that (PW2), Watchman who has allegedly seen that the assailants entering the premises has not identified the present applicant. As such it is his contention that there is no evidence against applicant. It is further contented that the allegation against the applicant is of he used a trimmer in the incident of assault on the deceased. According to him this is a fit case for grant of bail. He further argued that the applicant is arrested on 07th May 2022 and since then he is in jail. Attention of the Court is drawn to the *Roznama* indicating that in last more than a year, out of 86 dates of hearing on 53 occasions the applicant was not produced before the Trial Court. In such circumstances to seek bail he placed reliance on the order of Co-ordinate Bench of this Court in case of ***Gaurav Bandu Patil vs. State of Maharashtra and Anr¹*** and also order passed by the Hon'ble Supreme Court in case of ***Shashi Alias Shahi Chikna Vivekanand***

1 2024 SCC OnLine Bom 1258

*Jurmani vs. State of Maharashtra*² to seek bail on this ground. It is his further submission that even on merit the applicant is entitled for bail. He further argued that the First Bail Application came to be rejected for the reason that the applicant alongwith the co-accused was absconding and he being a foreign citizen. To submit that nationality of the accused cannot become a ground for rejection of bail, he places on reliance on the judgment in the case of *Frank Vitus Vs. Narcotics Control Bureau and Ors*³.

4. Learned APP opposes the Bail Application by citing seriousness of the crime so also on the ground of the rejection of the earlier application for bail filed by the present applicant on merits.

5. There cannot be any dispute with regard to the fact that it is not open for this Court to review its own order. Undisputedly, the First Bail Application came to be rejected, on merit. This order has not been taken exception before the Supreme Court. Thus, even after lapse of time this Court cannot be called upon to decide the application for bail on merit again. This Court therefore does not

2 SLP (CRL.) No.12690/2025

3 [2025] 1 SCR 184

wish to decide applicant on merits. Insofar as, the examination of PW2 is concerned, which is a fact subsequent to passing of earlier order, it is premature to make any observations with regard the evidence led of the said witness before the Trial Court. Needless to say that it is for the Trial Court to decide the evidentiary value of the said evidence, coupled with the other evidence led by the prosecution during the course of the trial.

6. In view of the fact it is not permissible for this Court to pass any order on merit, the judgments cited herein above have no application with the present case. Needless to say that only on the ground that the applicant is a foreign national his bail application cannot be rejected, however, if the applicant was aggrieved by the said order passed by this Court on 22nd June 2024, the said order is ought to have been challenged before the Supreme Court. The applicant cannot call upon this Court to take a view different from the one taken in the earlier order on issue already decided.

7. As far as the judgment in the case of Shashi (*cited supra*) is concerned, the Hon'ble Supreme Court was dealing with the offences under Section 307 and not under Section 302. In the facts of that case, it was held to be a fit case for enlargement of the

accused on bail. In respectful view of this Court, this order cannot be made applicable in case of serious offence like murder. Moreover, in the case of *Siddhant @ Sidharth Balu Taktode vs. State of Maharashtra & Anr.*⁴, it was fairly stated before the Hon'ble Supreme Court that the charges were not framed and which made the Hon'ble Supreme Court to grant bail to the accused.

8. Whereas in the instant case, it is admitted fact that the charge is framed and two witnesses are examined. In the light of the said fact, this Court finds substance in the contention of learned APP that reasonable opportunity needs to be given to the cross-examination to prove the serious charge of the murder against the present applicant. He further made state that considering the number of witnesses to be examined which is 45, it will take at least a year and half for conclusion of trial. Considering the fact that the trial has already commenced, Trial Court is directed to expedite the trial and conclude the same within the period of year.

9. Learned counsel for the applicant seeks bail also on the ground that considerable time has been lapsed in between

4 2024 INSC 1017

rejection of First Bail Application and present Bail Application. This Court is of considered view that lapse of the time will not permit the Court to review its order on merit and pass any further order.

10. In view of the above discussion, the Bail Application stands dismissed.

(R. M. JOSHI, J.)