

Ajit Pathrikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 545 OF 2026

Mohammad Samir Rafukulla Khan ...Applicant

Versus

State Of Maharashtra ...Respondent

Mr. Ankit Dhindale, *for the Applicant.*

Ms. Poonam P Bhosale, *APP for the State-Respondent.*

PSI – Rahul Patil, *Narpoli Police Station, is present.*

CORAM DR. NEELA GOKHALE, J.

DATED: 11th FEBRUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 638 of 2019 dated 5th November 2019 registered with the Narpoli Police Station for the offences punishable under Section 363 of the Indian Penal Code, 1860 ('IPC'). Thereafter, Section 302 was also added.

2. The case of the prosecution, as discerned from the FIR, is that the Applicant was in a relationship with the Complainant's daughter, who was 17 years of age. They were in a consensual relationship. The Applicant lured the Complainant's daughter to run away with him. Accordingly,

on the fateful day, the Complainant's daughter left the house of the Complainant and ran away with the Applicant. According to the prosecution, the statement of the victim's sister under Section 164 of the Cr.P.C. indicates that when the victim wanted to go to the bathroom in the middle of the night, she left the door of the house open and her sister heard the voice of the Applicant calling out to her. Similarly, after his arrest, some amount was found in his bag along with the Aadhar Card and passbook of the victim girl. On this premise, the Applicant was arrested on 9th November 2019. It was ultimately revealed that the victim was murdered. The cause of death is noted as '*Death due to asphyxia due to strangulation (un-natural)*' as per the postmortem report.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, Bhiwandi. However, by order dated 4th August 2025, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

4. Mr. Ankit Dhindale, learned counsel for the Applicant, states that this is a case of false implication. He states that the nature of evidence against the Applicant is purely circumstantial in nature. There is no eyewitness. He also submits that the chain of evidence available on record is not sufficient to link the present Applicant with the murder of the victim girl. He submits that the Applicant has suffered incarceration of more than seven years and the charges are framed only on 5th December 2024. Even the CA report is yet awaited. Hence, he prays that the Applicant be released on bail.

5. Ms. Poonam Bhosale, learned APP, has brought to my notice the statements of the victim's sister, mother and father recorded under Section 164 of the Cr.P.C. She has also pointed out the statement given to the police by the Applicant's friend, Salman, who has stated that the Applicant had given him one bag to keep at his house. According to Salman, the Applicant had shared with him that he had a consensual relationship

with the victim. She also submits that the charges are framed and the recording of evidence is to commence. She further submits that the victim's Aadhar Card and passbook were also recovered from the bag which the Applicant had kept with Salman. She further submits that there is ample material on record to indicate the complicity of the present Applicant and hence, the Bail Application be rejected.

6. I have heard learned counsel appearing for the respective parties and perused the record with their assistance.

7. Admittedly, the evidence against the Applicant, which is presently on record, is circumstantial in nature. The Applicant has suffered incarceration for more than seven years. The recording of evidence is not yet commenced. The CA report is also awaited. The Applicant has suffered long incarceration. There are no antecedents against the Applicant save and except the present case.

8. In view of aforesaid, I am inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;
- iv) The Applicant shall not leave India, without permission of the trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- vii) The Applicant to co-operate with the conduct of the trial;
- viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

9. Application is allowed in the above terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)