



Order below Exh.52 in Sessions Case No.32/2024

(State Vs. Harishankar)

The present application is a successive bail application preferred by the accused Harishankar Lalchand Rajbhar in connection with Crime No.12/2024 registered with Wadkhal Police Station for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The applicant is presently in judicial custody and is facing trial before this Court.

Background and Earlier Proceedings :-

02. It is not in dispute that the applicant had earlier preferred an application for bail which came to be rejected by this Court after considering the seriousness of the allegations and the material placed on record. The present application is therefore a successive application, and it is settled that in such circumstances the applicant must demonstrate a substantial change in circumstances or new grounds warranting reconsideration.

03. The applicant contends that he has been in custody for nearly two years, that the trial has not progressed substantially, that co-accused have been granted bail by the Hon'ble High Court, and that his aged parents are dependent upon him. On these grounds, he seeks enlargement on bail. The prosecution has strongly opposed the application.

Prosecution Case in Brief :-

04. The prosecution case, as gathered from the charge-sheet and the material on record, is that on 30.01.2024, at Savali Lodge situated at Wadkhal Naka, Taluka Pen, District Raigad, the deceased Dharmendra Kumar Kushwaha, who was working as Manager of the said lodge, was brutally assaulted and murdered.

05. It is alleged that prior to the incident, there had been a quarrel between accused Chandrajit Bharadwaj, the present applicant Harishankar Rajbhar, and the deceased. The prosecution alleges that during the earlier altercation, threats were issued to the deceased.

06. On the date of the incident, it is alleged that the accused persons, in furtherance of their common intention, took the deceased to Room No. 115 of the lodge. The role attributed to the present applicant is that he held the deceased down and pressed his mouth with a pillow, thereby restraining him, while co-accused Anjudevi allegedly held his legs and co-accused Chandrajit inflicted fatal injuries with a knife by cutting the throat and private parts of the deceased. It is further alleged that the mutilated part was placed over the eyes of the deceased.

07. The prosecution relies upon eyewitness statements, CCTV footage recovered in the form of a pen drive (Exh.26), recovery of blood-stained clothes (Exh.19 to Exh.25), and other material. The chemical analysis report is stated to be awaited.

Consideration of the Application :-

08. This being a successive bail application, the first and foremost aspect that requires consideration is whether there is any substantial change in circumstances since rejection of the earlier application.

09. The applicant has primarily relied upon (i) passage of time, (ii) grant of bail to co-accused by the Hon'ble High Court, and (iii) family hardship.

10. Upon careful consideration of the record, it is evident that the core prosecution allegations remain unchanged. The investigation has culminated in filing of charge-sheet. Charges have been framed. The evidence which formed the basis for rejection of the earlier bail application continues to exist. No new material has been brought on record to demonstrate that the prosecution case has weakened or that any crucial circumstance has altered.

11. Mere passage of time, unless it amounts to inordinate and unexplained delay in trial, cannot by itself constitute a substantial change in circumstance in a case involving an offence punishable with death or imprisonment for life. The record does not reveal that the prosecution has deliberately delayed the proceedings. The trial has commenced and witnesses are being summoned.

Parity with Co-Accused :-

12 The applicant has urged parity on the ground that co-accused Chandrajit Bharadwaj and Anjudevi have been granted bail by the Hon'ble High Court.

13. The principle of parity is indeed an important consideration; however, parity is not to be applied mechanically. The Court must examine whether the role attributed to the applicant is identical, similar, or distinguishable from that of the co-accused who have been enlarged on bail.

14. In the present case, the specific role attributed to the applicant is that he pressed the mouth of the deceased with a pillow and restrained him, thereby facilitating the fatal assault. This is not a passive or incidental role. The allegation is of active participation in furtherance of common intention. Without such restraint, the prosecution alleges, the fatal act could not have been effectively executed.

15. The order of the Hon'ble High Court granting bail to co-accused has not been placed before this Court in detail to demonstrate that the present applicant stands on identical footing. In absence of material showing that the High Court considered and equated the roles in a manner directly applicable to the applicant, this Court cannot mechanically extend the benefit of parity. Thus, parity is not established in a manner that compels this Court to grant bail.

Gravity and Nature of Offence

16. The offence alleged is under Section 302 of IPC, punishable with death or imprisonment for life. The manner of commission, as alleged in the charge-sheet, is extremely brutal and displays prima facie cruelty and deliberation.

17. The allegations include restraining the deceased,

smothering him, cutting his throat and private parts, and causing fatal injuries. At the stage of bail, though the Court does not conduct a detailed appreciation of evidence, it cannot ignore the gravity and the manner of commission. The seriousness of the offence and the severity of the possible punishment are relevant considerations while exercising discretion under Section 439 of the Code of Criminal Procedure.

Likelihood of Absconding and Witness Intimidation

18. It is brought on record that the applicant is a resident of Uttar Pradesh and does not have permanent roots within the jurisdiction of this Court. The prosecution has expressed apprehension that if enlarged on bail, the applicant may abscond or may not remain available for trial.

19. Considering the severity of punishment involved and the fact that the applicant hails from outside the State, such apprehension cannot be brushed aside as wholly unfounded. Further, the prosecution has pointed out that threats were allegedly issued to witnesses prior to the incident. At this stage, when material witnesses are yet to be examined, the possibility of intimidation or influence cannot be ruled out.

Delay and Personal Circumstances :-

20. The applicant has pleaded that his aged parents are dependent upon him and that his continued incarceration has resulted in hardship to his family.

21. While the Court is not insensitive to such considerations, personal hardship alone cannot override the

seriousness of the offence and the overall circumstances, especially when no extraordinary delay in trial is demonstrated.

Conclusion :-

22. Having considered the nature of accusations, the specific role attributed to the applicant, the seriousness and brutality of the alleged offence, the absence of substantial change in circumstances since rejection of the earlier bail application, the incomplete establishment of parity with co-accused, and the apprehension regarding absconding and witness intimidation, this Court is of the considered view that the applicant has not made out a case for grant of bail at this stage.

ORDER

1. The successive bail application filed by accused Harishankar Lalchand Rajbhar in Crime No. 12/2024 registered with Wadkhal Police Station for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code is hereby rejected.
2. It is clarified that the observations made herein are prima facie in nature and shall not influence the trial on merits.
3. Intimate the order to jail superintendent forthwith

Alibag,

Date:- 25/02/2026.

(S.D.Bhagat)

Additional Sessions Judge,
Raigad-Alibag.