

MHRG170003542023



ORDER BELOW EXH. 38
IN SESSIONS CASE NO.43/2023
KHANDESHWAR C.R.NO.243/2022
THE STATE OF MAHARASHTRA V/S. DEVRAT RAJENDRA RAUT
AND OTHERS
(PASSED ON 11th DAY OF JUNE, 2024)

This application is successive application for bail filed on behalf of the applicant/accused Devrat Rajendra Raut vide Section 439 of the Code of Criminal Procedure to enlarge him on bail.

2. Since this application is a successive application as such, this court listed the matter for argument on maintainability.

3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether the successive application is maintainable?	No.
II.	What Order ?	The application is Dismissed.

REASONS

4. Perused application, say filed. Heard learned advocate for the applicant/accused Shri.A.S.Bangera and learned A.P.P. Shri.Y.S.Bhopi for the State.

AS TO POINTS NO. I :

BRIEF FACTS OF PROSECUTION :

5. The informant is one Rajendra Kundansingh Rawat. The incident took place on 15.09.2022. The deceased is the daughter-in-law of the informant. Applicant is the husband of deceased. It was murder of daughter-in-law of informant and wife of applicant near Panvel Railway station at about 9.45 p.m to 10.10 p.m by sharp weapon cutting her throat.

6. On that count, the informant lodged the report dated 16.09.2022 at Police Station, Khandeshwar The Police Station, Khandeshwar registered Crime No.243/2022 for the offence under Section 302 of the Indian Penal Code against unknown person. Later on involvement of present applicant/accused and other accused persons is made out. During investigation, investigating officer added Section 120-B and 34 of the Indian Penal Code.

7. The police arrested the accused/applicant-Devrat

Rajendra Rawat on 17.09.2022 and produced before the Court on 18.09.2022. Initially, he was remanded to police custody till 22.09.2022 which was extended till 26.09.2022 and thereafter remanded to judicial custody as per order dated 26.09.2022. Presently, the applicant/accused is in Judicial Custody.

MAINTAINABILITY OF APPLICATION :

8. The present application for bail is a successive application. Earlier this court dismissed application for regular bail of this applicant vide order passed below Exh.8 Dated 23.10.2023 on the ground of involvement of present applicant and he has hatched criminal conspiracy to murder his wife and also it was a contract killing.

9. The present application for bail is filed on 21.05.2024 i.e. after a period of nearing to 7 months. At the time of deciding first bail application, the charge-sheet was filed. There is no change in circumstance as to entertain present successive application for bail.

10. According to learned advocate of applicant, the other accused namely Pravin Sadashiv Ghadge has applied for bail before Hon'ble Bombay High Court and his bail application is allowed as per order dated 17.04.2024 vide Bail Application No.4070 of 2023. Thus on the ground of parity, this applicant requested for bail.

Learned A.P.P strongly objected to release the applicant on bail since there is no change in circumstance, also the rule of parity has no application.

11. In the light of this rival contention and on perusal of bail order of accused Pravin Ghadge passed by Hon'ble Bombay High Court and the bail order of present applicant passed by this court coupled with involvement of both accused in the charge-sheet, it is apparent that the involvement of both applicants stands on different footing.

12. The present applicant is the husband of the deceased. He hatched criminal conspiracy to commit murder of his wife. This applicant was in love relations with accused No.2-Nikita and then married her. The present applicant and accused No.2 have hatched conspiracy to remove the deceased from their marital life since she was found to be obstacle for them. The accused No.2 was in acquaintance with accused No.3-Pravin Ghadge and this accused Pravin Ghadge called rest accused for contract killing. In the light of their involvement in the crime apparently the rule of parity has no application.

13. At this stage, it is relevant to cite the observation of Hon'ble Apex Court in the case of **Kalyan Chandra Sarkar V/s. Rajesh Ranjan @ Pappu Yadav AIR 2005 SUPREME COURT 921** that, 'even though there is a room for filing a subsequent bail

application in cases where earlier applications have been rejected, the same can be done if there is a change in the fact situation or law which requires the earlier view being interfered with or where the earlier finding has become obsolete. This is the limited area in which an accused who has been denied bail earlier can move a subsequent application.'

14. Relying upon this observation apparently, there is no spacious change in order to entertain present application filed after seven months of the rejection of first application. Further in order to invoke the ground of rule of parity to extend this applicant on bail, it is for this applicant to make out the ground that the involvement of both accused on same footing. However on perusal of the application for bail, there is no single averment as to the spacious change and the involvement of both offenders on same footing.

15. Thus the involvement of this applicant is on different set of facts. Thus the rule of parity has no application. Further there is no specious change to entertain the present application for bail. On all these grounds, the subsequent application for bail on behalf of accused/applicant is not maintainable. The applicant /accused No.1 does not deserve for bail. I answer Point No.I in the negative. With this, I pass following order;

ORDER

1.	The application for regular bail vide Section 439 of the Code of Criminal Procedure on behalf of the applicant/accused No.1 – Devrat Rajendra Raut is dismissed.
2.	A soft copy of this bail order be forwarded to the applicant/accused through Superintendent, Taloja Jail by e-mail for information in view of observation of Hon'ble Apex Court in the case of In Re Policy Strategy For Grant of Bail in SMWP (CRIMINAL) NO.4/2021, Dated 31.01.2023.
3.	Inform to concerned Police Station accordingly.
	Dictated and pronounced in Open Court.

Place : Panvel.

Date : 11.06.2024

(K.G. Paldewar)
Additional Sessions Judge,
Panvel

Arguments heard on	28 th Day of May, 2024.
Order delivered on	11 th Day of June, 2024.
Dictated on	11 th Day of June, 2024.
Transcribed on	11 th Day of June, 2024.
Checked and signed on	11 th Day of June, 2024.

CERTIFICATE

I affirm that the contents of this PDF file
Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer	:	P.S.Mhatre
Name of the Court	:	Additional Sessions Court, Panvel
Date of Judgment/Order	:	11.06.2024.
Judgment/Order signed on	:	11.06.2024.
Presiding Officer	:	K.G. Paldewar
Judgment/Order uploaded on	:	11.06.2024.