

Sessions case No.38/2022
State ..Vs.. Sunil Kuchankar & Ors.,
(CNR No.MHYA010007032022)

ORAL ORDER BELOW EXH. 173

1. This is an application for bail under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023.
2. Heard the learned counsel for the accused No.1 and the learned A.P.P for the State. Perused the record.
3. It is submitted by the learned counsel for the accused No.1 that liberty was granted by the Hon'ble High Court to move a fresh application before this court, if there is no substantial progress in the trial. The accused No.1 has been behind the bars for the past four years, without any clinching evidence against him. Even charge is not framed, as yet. There are 51 witnesses cited by the prosecution, due to which, the trial may take two more years. He relied upon the following authorities -
 - i] **Balkrishna Tularam Angre ..Vs.. State of Maharashtra, 2018 ALL MR (Cri) 898 (S.C.)**, wherein the accused was enlarged on bail, when the case was based upon circumstantial evidence and the accused was behind the bars for 15 months.
 - ii] **Order dated 16th May, 2023, passed in Petition for Special Leave to Appeal (Cri.) No. 3490/2023, Maniklal Mehta ..Vs.. The State of Bihar, by the Hon'ble Supreme Court**, wherein the accused was directed to be enlarged on bail, when the role attributed to him was that of a conspirator.

iii] **Javed Gulam Nabi Shaikh ..Vs.. State of Maharashtra and Another, 2024 ALL MR (Cri) 2882**, wherein the accused was enlarged on bail, as he was behind the bars for four years, without framing charge, and the prosecution intended to examine not less than 80 witnesses. It was observed therein that the accused has got the right to speedy trial, and that, bail is not to be withheld as a punishment.

4. *Per contra*, it is submitted by the learned APP that it was a cold blooded murder. A vital role has been played by the accused No.1. He is likely to pressurize the witnesses. Section 106 of the Evidence Act gets attracted against him.

5. The factual matrix, as apparent from the FIR, is that certain persons entered into the house of the deceased and abducted him. The informant is said to have had an occasion to observe the face of one of the miscreants.

6. The accused No.1 is said to have been identified in the test identification parade. The alleged abductors can certainly be said to have been responsible for the causing of the death of the deceased, unless the contrary is shown by them.

7. This court appears to have rejected the previous bail application moved by the accused No.1, notwithstanding the ground of parity, pressed into service at the relevant time. The accused No.1 appears to have approached before the Hon'ble High Court, which appears to have granted liberty to him to approach

before this court after one year, in the absence of substantial progress in the trial.

8. The several grounds, as sought to be pressed into service, cannot be paid much attention to, save the grounds that the trial could not proceed ahead.

9. The offence is certainly serious in nature, and the accused No.1 is said to have been identified in the test identification parade. The record reveals that the case has been transferred to this court from another court, recently. The trial can be expedited by this court.

10. Considering the overall circumstances, including the role attributed to the accused No.1 and the evidence available against him, this court is not inclined to enlarge him on bail. Thus, I proceed to pass the following order.

ORDER

The application is hereby rejected.

Date: 27/10/2025
Place: Yavatmal.

(S.U. Baghele)
Additional Sessions Judge,
Yavatmal.