

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 BAIL APPLICATION NO.1242 OF 2020

SHIVAJI DHANAJI PATIL
VERSUS
STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Gaware Niteen V.
APP for Respondent : Mr. A S Shinde

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CORAM : V.K. JADHAV, J.
Dated: December 18, 2020

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PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.713 of 2019 registered with MIDC police station, Ahmednagr, District Ahmednagar for the offences punishable under Sections 396, 120B, 341, 412 and 201 of Indian Penal Code. His application bearing Criminal (Bail) M.A. No.657 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Ahmednagar vide order dated 30.7.2020.

2. As per the prosecution story, the deceased, who is owner-cum-driver of the truck loaded his truck with the pouch consisting milk powder at Sonai Milk Dairy, Indapur, District Pune. On 29.12.2019 co-accused Dilip

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Mundhe, the applicant and other co-accused persons in a Scorpio Jeep had chased the said truck all the way, however, near one petrol pump on bypass Ahmednagar road, deceased was murdered and the assailants took away said loaded truck with them. The said truck loaded with the milk powder was recovered at the instance of the co-accused Dilip Mundhe. According to the prosecution, at various places in 'CCTV footage' the applicant was found travelling with co-accused Dilip Mundhe in his Scorpio Jeep. On the basis of the same, the applicant came to be arrested in connection with the present crime on 7.1.2020 and since then he is in jail.

3. Learned counsel for the applicant submits that except the identification of the applicant in the Sonai Milk Dairy by one of the employee of the said dairy namely Somnath, none has identified the applicant in connection with the present crime. As per the statement of the said employee of Sonai Milk Dairy namely Somnath, co-accused Dilip Mundhe went there to meet him as they are old friends and present applicant and

one more person accompanied co-accused Dilip Mundhe at that time. Even, co-accused Dilip Mundhe has introduced present applicant to his old friend Somnath in the said Sonai Milk Dairy. Learned counsel submits that thereafter there is no clinching evidence to point out that all the way they chased the truck of the deceased in a Scorpio Jeep by joining the company of the co-accused Dilip Mundhe. Learned counsel submits that prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case. There is no recovery at the instance of the applicant. The applicant allegedly shown one place where he has tried to destroy the sim card of his own however, there is hardly any relevancy of the said panchnama with the commission of crime. Learned counsel submits that on the same set of allegations, by order dated 28.9.2020 in bail application no.976 of 2020 this Court has released co-accused Raviraj Dnyandeo Bansode on bail. There is no criminal history. The applicant may be released on bail.

4. Learned A.P.P. has strongly resisted the application on the ground that the applicant and co-accused persons chased the truck of the deceased loaded with the milk powder at Sonai Dairy milk plant at Indapur, Pune. There is evidence to that effect. During the course of investigation, statements of the owner of the Lodge, owner of Lucky Hotel, owner of Priyanka Lodge, owner of Hotel Shishambho came to be recorded. Furthermore, the investigation officer has also collected the 'CCTV footage' from various places, which indicates the presence of the applicant alongwith co-accused Dilip Mundhe. Prima facie, there is strong case against the applicant. There is one crime registered against the applicant under section 380 of IPC in the year 2019. The applicant may not be released on bail.

5. On going through the allegations made in the complaint and on perusal of the charge-sheet, it appears that prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case. There is circumstantial evidence in the

form of 'CCTV footage' recorded at the various places. On perusal of the panchnama drawn in respect of those 'CCTV footage', it appears that name of the present applicant has been disclosed by co-accused persons which has hardly any evidentiary value. So far as identification of the applicant by witness Somnath, who was working in the said Sonai Milk Dairy is concerned, even assuming for discussion that co-accused Dilip Mundhe has introduced present applicant to his old friend Somnath in the said Sonai Milk Dairy, however, only on its basis, no inference can be drawn that the applicant all the while chased the truck of the deceased alongwith Dilip Mundhe in his Scorpio Jeep and actively participated in the commission of the crime. There is only one crime under section **380** of the IPC against the applicant and all other accused persons. The applicant has a fixed place of residence and available for trial. I am thus inclined to release the applicant on bail with certain conditions. Hence the following order :-

ORDER

I. Application is hereby allowed.

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II. The applicant SHIVAJI DHANAJI PATIL in connection with Crime No.713 of 2019 registered with MIDC police station, Ahmednagr, District Ahmednagar for the offences punishable under Sections 396, 120B, 341, 412 and 201 of Indian Penal Code be released on bail on furnishing personal bond of Rs.20,000/- (Rs. Twenty Thousand) with one solvent surety of the like amount on following conditions :-

- a) The applicant shall not tamper with the prosecution evidence in any manner.

III. Application is disposed off.

(V.K. JADHAV, J.)

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