

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

923 BAIL APPLICATION NO.1337 OF 2020

DEEPAK DEVENDRA GAVALI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. R R Deshpande a/w
Deshpande Priyanka R.
APP for Respondent : Mr. S P Deshmukh

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CORAM : V.K. JADHAV, J.
Dated: December 08, 2020

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PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.382 of 2019 registered with M.I.D.C. Police Station, Latur, District Latur for the offences punishable under sections 302, 120(B) of the Indian Penal Code. His application Exh.49 with similar prayer in Sessions Case No.54 of 2020 came to be rejected by the learned Sessions Judge-4, Latur vide order dated 2.7.2020.

2. Learned counsel for the applicant submits that investigation is over and charge-sheet has been submitted. The applicant is a young boy, 18 years of

age, student by occupation having no criminal history. The applicant is in jail since 10.11.2019.

3. Learned counsel for the applicant submits that in the complaint itself reference has been given to one earlier incident, wherein allegedly real brother of the informant was murdered by his uncle Vilas Govind Sathe and others. Consequently, crime no.14 of 2019 under sections 302, 143, 144, 147, 148, 149, 324 of the IPC came to be registered against seven persons and all those seven persons are still in jail in connection with the same crime. Learned counsel submits that it has been alleged in the complaint that those persons detained in jail in connection with the crime no.14 of 2019 hatched conspiracy in jail and in prosecution of the said conspiracy, contract was given to kill the deceased.

Learned counsel further submits that the incident had taken place on 6.11.2019 at about 09.30 am. It has been alleged that one Tata safari vehicle has given dash to the motor bike of the deceased from its back side and

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in consequence thereof, deceased had sustained multiple injuries. Said incident allegedly taken place in front of Deshmukh Water plant. Learned counsel submits that the persons working on the said water plant apprehended one of the person from the said Tata Safari. Learned counsel submits that name of the applicant neither mentioned in the FIR nor he was present on the spot of the incident. Even, the Vivekanand Hospital, Latur where the deceased was taken for his treatment after said incident, reported to the MIDC Police Station about the injuries sustained by the deceased due to vehicular accident. Learned counsel submits that even in the postmortem report, history is shown as vehicular accident on 6.11.2019. Learned counsel submits that during the course of the investigation, co-accused allegedly disclosed name of the present applicant. Learned counsel submits that it has been alleged against the applicant that he had done Reiki in the village about the activities of the deceased as part of the conspiracy hatched by the co-accused to kill the deceased under the contract of killing and,

accordingly, the applicant came to be arrested in connection with the present crime. Learned counsel submits that there is no connecting evidence against the applicant. Even there are no statements of the witnesses of the village indicating that the present applicant has carried out said reiki in the village in order to observe the day to day routine of the deceased to facilitate the commission of crime. Learned counsel submits that the applicant has his roots in the society, easily available for trial. The applicant is ready to abide the conditions, if imposed by this court while enlarging 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 though name of the applicant is not mentioned in the FIR, however, during the course of the investigation it has been revealed that on the earlier day of the incident and even some days prior to it the applicant was seen in the company of the assailants including the person caught red handed on

the spot by the persons working on the said Deshmukh water plant. Learned APP submits that alleged vehicular accident is a scene created by the co-accused persons and the applicant in prosecution of the conspiracy hatched, deliberately given the dash to the motor bike of the deceased with an intention to kill him. Learned APP submits that prima facie, there is strong case against the applicant. 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 name of the applicant is not mentioned in the FIR. It has also not alleged in the complaint nor it has been revealed in the investigation that the present applicant has accompanied those two persons driving Safari car at the relevant time. It further appears that one person from the said Safari car caught red handed by the workers of the Deshmukh Water plant. Co-accused has disclosed name of the applicant, however, said statement or part thereof as against the

applicant/accused is inadmissible in evidence. Apart from this, even assuming that the applicant has done reiki in the village as alleged and as revealed during the course of the investigation, however, there is hardly any evidence indicating reiki carried out by the applicant in the village. There is no witness from the village disclosing that on earlier occasion and on the date of the incident, the applicant has done reiki in the village. It is for the trial court to consider as to whether the alleged incident was a vehicular accident or it was a deliberate act in prosecution of the conspiracy hatched by the accused persons, during the course of the full fledged trial of the case. However, as it appears now there is no connecting evidence against the applicant. The applicant is a young boy having no criminal history. Thus, case is made out to grant bail. Hence, I proceed to pass the following order.

O R D E R

- I. Application is hereby allowed.
- II. Applicant - DEEPAK DEVENDRA GAVALI in connection with Crime No.382 of 2019

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registered with M.I.D.C. Police Station, Latur, District Latur for the offences punishable under sections 302, 120(B) of the Indian Penal Code be released on bail on furnishing P.B. of Rs.20,000/-(Rs. Twenty Thousand) with one solvent surety of the like amount, on the following conditions :-

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

III. Bail application is accordingly disposed off.

(V.K. JADHAV, J.)

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