

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

924 BAIL APPLICATION NO.1366 OF 2020

Dayanand Madhukar Solanke
Age : 34 years, occ : agri.,
R/o Hingni (Kh), Tal. Dharur,
District Beed.

Applicant

Versus

The State of Maharashtra
Through Police Station Dindrud,
District Beed.

Respondent

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Mr. P.N. Muley, Advocate for the applicant.
Mr. A.A. Jagatkar, A.P.P. for respondent / State.

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CORAM : **V.K. JADHAV, J.**

DATE : 10.12.2020

ORDER :-

1. The applicant is seeking regular bail in connection with Crime No. 91 of 2020 registered with Dindrud Police Station, District Beed for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. His Bail Application below Exh.9 in Sessions Case No.18 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Majalgaon, District Beed vide order dated 14.10.2020.
2. Heard both sides.

3. Learned Counsel for the applicant submits that though name of applicant is mentioned in the F.I.R. with a specific role attributed to the applicant that he has caught hold legs of the deceased, however, the other eye witnesses including witness Prabhakar Manik Ujagare on whose phone call the informant rushed to the spot, have not ascribed any role to the present applicant and merely marked his presence on the spot at the time of incident. Learned Counsel submits that the applicant is in jail in connection with the present crime since 27.04.2020. There is no criminal history. There was civil dispute between two families in respect of agricultural field. On the same set of allegations co-accused Madhukar and Shamal came to be released by Sessions Court, and therefore, on the principal of parity the applicant is also entitled to be released on bail.

4. The learned A.P.P. has strongly resisted the application on the ground that there are eye witnesses to the incident. Applicant allegedly participated in actual commission of the crime and he caught hold legs of the deceased. Learned A.P.P. submits that prima facie there is a strong case against the applicant. Applicant may not be released on bail.

5. On going through the allegations made in the complaint and on perusal of the charge-sheet, though I find name of the applicant mentioned in the F.I.R. with a specific role attributed to him, however, the informant rushed towards the spot only after informed about the incident by witness Prabhakar Ujagare on his mobile phone. On perusal of the statement of witness Prabhakar, it appears that he has not ascribed any role to the applicant and simply marked his presence on the spot at the time of alleged incident. It further appears that the allegations have been made only against accused Siddharam and Madhukar. Accused Siddharam is still behind the bars. It is not clear from the statements of witnesses including the F.I.R. as to whether the incident is an outcome of premeditation. Furthermore, the other eye witnesses have also not ascribed any specific role to the applicant. On the same set of allegations the Sessions Court has released co-accused Madhukar and Shamal on bail. In view of the same, principal of parity stands attracted. There is no criminal history. Applicant is also entitled to be released on bail. Hence, the following order.

ORDER

1. Application is hereby allowed.

2. Applicant Dayanand Madhukar Solanke in connection with Crime No. 91 of 2020 registered with Dindrud Police Station, District Beed for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, be released on furnishing personal bond of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety of the like amount, on the following conditions :
 - (i) The applicant shall not tamper with the prosecution evidence in any manner.
6. Application is accordingly disposed of.

(V.K. JADHAV, J.)