

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

925 BAIL APPLICATION NO.1464 OF 2020

MADHAV GANESHRAO POLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. V. C. Patil h/f Mr. Bondar U. B.
APP for Respondent-State : Mr. A. S. Shinde.
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CORAM : V. K. JADHAV, J.
DATE : 07.01.2021

PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.168 of 2020 registered with Aundha Nagnath Police Station, District Hingoli for the offences punishable under Sections 302, 201 read with Section 34 of the IPC. His application with similar prayer below Exh.9 in Sessions Trial No.52 of 2020 came to be rejected by the learned Additional Sessions Judge, Basmathnagar, District Hingoli.

2. The learned counsel for the applicant submits that, the investigation is over and the charge-sheet has been submitted. The applicant is arrested in connection with the present crime on 23.07.2020 and he is in jail since then. The learned

counsel submits that the prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case. The learned counsel submits that co-accused Nandabai allegedly made extra judicial confession before the informant and that is the only circumstance available against the applicant. There is no further connecting evidence against the applicant. The applicant is having a fixed place of residence. He is easily available for trial. The applicant is ready to abide conditions, if imposed by this Court while enlarging him on bail. The learned counsel submits that the applicant may be released on bail.

3. The learned APP has strongly resisted the application on the ground that there were illicit sexual relations between the deceased and co-accused Nandabai, however, co-accused Nandabai has also developed sexual relations with the applicant. On the date of the incident, the deceased had seen co-accused Nandabai and the present applicant in a compromising position in the house of Nandabai and thus the scuffle had taken place between them. The learned APP submits that as per the extra judicial confession of co-accused

Nandabai she has pressed the neck of the deceased and the present applicant hit the stone on the head of the deceased. Thereafter, both the accused persons have caused to disappear the evidence by burying the dead body at a different place. The learned APP submits that the offence is serious. *Prima facie*, there is an evidence about the homicidal death. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge-sheet, it appears that the prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case. Except the extra judicial confession allegedly made by co-accused Nandabai before the informant, there is no further connecting evidence against the applicant. Informant is the father of deceased. *Prima facie*, it is very unlikely on the part of co-accused Nandabai to make extra judicial confession before father of the deceased. Apart from this, since there is no connecting evidence against the applicant, I am inclined to grant bail to the applicant with certain condition. Hence, following order :

ORDER

1. The application is hereby allowed.
2. The applicant MADHAV GANESHRAO POLE in connection with Crime No.168 of 2020 registered with Aundha Nagnath Police Station, District Hingoli for the offences punishable under Sections 302, 201 read with Section 34 of the IPC. be released on bail on furnishing PB. of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety of the like amount on the following condition :-
 - a] The applicant shall not tamper with the prosecution evidence in any manner.
3. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-