

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

918 BAIL APPLICATION NO.1247 OF 2021

SAGADYA UMBARYA KALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Gaikwad Anil M.
APP for Respondents/State : Mr. S.D. Ghayal
...

CORAM : M.G. SEWLIKAR, J.
DATE : 29th November, 2021

PC.:-

Heard.

2. The deceased-Ashish Chandrakant Kanade and Dhananjay Dattatraya Bhalerao own a hotel by the name of Hotel Pride at Ghargaon Shivar, Tq. Sangamner, District Ahmednagar. Informant is a waiter working in the said hotel. On 18.01.2020, initially, Dhananjay Dattatraya Bhalerao was at the counter. On the arrival of deceased-Ashish Chandrakant Kanade, Dhananjay Bhalerao left the hotel. Deceased-Ashish went off to sleep in the hotel on a cot. In the morning at 7.00 am, informant Sunil tried to wake the deceased up. The deceased did not give any response. It was noticed by another waiter by the name of Ravi Nana Raut and Akshay Janardhan Wargade that the deceased was dead and blood was oozing from his nostrils.

The deceased was shifted to the hospital where he was declared dead. On inspection of the hotel it was found that rear door of the hotel was found broken and counter was found ransacked and there was theft of cash of Rs.40,000/-. Thereafter, the report came to be lodged on the basis of which offence under Section 302, 397, 394 and 452 of the I.P.C. was registered.

3. Heard Shri Gaikwad learned counsel for the applicant and Shri Ghayal learned APP for the State.

4. The only evidence against the applicant is the recovery of iron rod. The said iron rod does not have blood stains. Except this evidence prosecution could not collect any other evidence worth the name to connect the accused with the offence. Learned APP Shri Ghayal submits that applicant has criminal antecedents. If he is released on bail, there is every likelihood of applicant committing same offence again. This submission is stated to be rejected. As already indicated above, there is no cogent evidence to connect the applicant with the offence. Unless there is any evidence against accused in the crime in which he is seeking bail, his criminal antecedents do not have any relevance. Criminal antecedents of an accused can be considered only when there is *prima facie* case against the accused in the offence in which he is seeking bail. Since in this case there is no *prima facie* evidence, criminal antecedents of the accused have hardly any significance. In this view of the

matter and moreover another accused having similar role has been released on bail by this Court, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.15,000/- with one solvent surety in the like amount, in connection with Crime No.24 of 2020 under Section 302, 397, 394, 452 of the I.P.C. registered with Ghargaon Police Station, District Ahmednagar.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]