

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1446 OF 2021

GOVIND PRAKASH UPADE
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. S. S. Jadhav, Advocate for the applicant.
Mr. V. M. Kagne, Advocate for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21.12.2021

ORDER :-

. Present application has been filed under Section 439 of the Code of Criminal Procedure by the applicant – original accused No.7, who has been arrested in connection with Crime No.512 of 2019 registered with Renapur Police Station, Dist. Latur for the offences punishable under Sections 302, 143, 147, 148, 149, 120(B) of Indian Penal Code.

2. Heard learned Advocate Mr. S. S. Jadhav for the applicant and learned Advocate Mr. V. M. Kagne for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. At the outset, it can be said that the investigation is over and charge-sheet is filed and, therefore, the further physical custody of the

applicant is not required for the purpose of investigation. The FIR has been lodged by one Nagnath Sitaram Sasane on 14.12.2019 in respect of the incident that had allegedly taken place at about 5.30 a.m. He has not claimed himself to be the eye witness in the FIR. However, he has disclosed the names of the assailants, who according to him had caused the murder, however, the name of the present applicant is not appearing in those names of suspected persons given by the informant. In the supplementary statement, the informant has then stated that he had gone near the spot of the incident for answering nature's call and then when he heard noise, rather going towards the noise he says that he went to home, called other persons and then went to the spot. His supplementary statement has been recorded on 16.12.2019 i.e. two days after the FIR. In the said statement, he discloses that he was informed by his cousin nephew that he had seen seven persons assaulting deceased with sword and axe. Statement of said cousin nephew Krushnakumar has been recorded on 16.12.2019. The obvious question that has been asked from the side of the applicant is, as to why there was no immediate disclosure to the informant. It has been stated in the statement itself that due to the fear, he had not disclosed it to anybody about the incident and after getting some courage, he has disclosed it. This fact will have to be appreciated by the learned Trial Judge after full

fledged hearing. However, the *prima facie* impression that is given is that, it is a belated disclosure. Same is the case with the statements of other witnesses who had allegedly seen the accused persons armed and going towards the spot. It is the further prosecution story that the present applicant had used a sword and while running he had wiped the blood on the sword to a tarpaulin on the road and he has disclosed the same along with his own clothes. The CA report shows that no blood stains were detected on the sword as well as on the clothes of the applicant. With this kind of evidence, the applicant deserves to be released on bail. Hence, the following order :-

ORDER

- I) Application stands allowed and disposed of.
- II) Applicant – Govind s/o Prakash Upade, who has been arrested in connection with Crime No.512 of 2019 registered with Renapur Police Station, Dist. Latur for the offences punishable under Sections 302, 143, 147, 148, 149, 120(B) of Indian Penal Code, be released on P. R. Bond of Rs.50,000/- with two sureties of Rs.25,000/- each.
- III) The applicant shall not enter the jurisdiction of village Palshi, Tq. Renapur, Dist. Latur till the conclusion of trial. He should reside elsewhere, and before submission of bail papers, the applicant should give complete address of his proposed residence

with his mobile number to the trial Court as well as to the investigation officer.

IV) He shall not tamper with the evidence of the prosecution in any manner.

V) He shall not indulge in any criminal activity.

VI) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm