

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 77 OF 2022

Bendrya @ Devendra Dudhkalya/Bharat Bhosale Applicant

Versus

The State of Maharashtra Respondent

Mr. S. A. Gaikwad, Advocate for the applicant.

Mr. S. B. Narwade, APP for respondent/State.

WITH
BAIL APPLICATION NO. 1616 OF 2021

Dilip Vikas Bhosle Applicant

Versus

The State of Maharashtra Respondent

Mr. K.A. Ingle, Advocate for the applicant.

Mr. S. B. Narwade, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 22nd FEBRUARY, 2022.

PER COURT :

1. Both these applications are being disposed of by common order as they arise out of the same offence.

2. Informant is the son of deceased Sindhubai Shashikant Changle and Shahsikant Shridhar Changle. There was a dispute between the uncles of the informant and his parents on account of landed property. About three months before the incident, Sindhubai and Shashikant were staying at the farm house at village Korale. On 26th June, 2021, at 7.45 am, uncle of the informant, by the name of Sahebrao Shridhar Changle made a phone call to the informant and informed him that all was not well with the parents of the informant as blood was oozing from their ears. The informant went to the house of the parents and found them dead. The informant suspected the same to be the handiwork of his uncles as they were on cross terms with the parents of the informant on account of landed property.

3. Investigation was carried out. Statements of witnesses were recorded. During investigation, both the applicants were arrested and in their interrogation, cash of Rs. 1,750/- was recovered from applicant Bendrya @ Devendra Bhosle and cash of Rs. 2,000/- was recovered from applicant Dilip Bhosle. Blood stained clothes have been recovered from both the applicants pursuant to their disclosure statement under Section 27 of the Evidence Act.

4. I have heard Shri Gaikwad, learned counsel for applicant in Bail Application No. 77/2022, Shri Ingle, learned counsel for applicant in Bail Application No. 1616/2021. Both of them submit that cash less than Rs.2,000/- was recovered from each of the applicants. They submit that cash less than Rs.2,000/- can be found even with an ordinary man with ordinary means. They submit that the only connecting link is that of seizure of blood stained clothes from both the applicants. Both of them submit that C. A. report is not filed. On the basis of this scanty evidence, applicants cannot be kept behind bars for an indefinite period.

5. Learned APP Shri Narwade submits that the Investigating Officer got a clue from the Sniffer dog. The Sniffer dog showed the way to Walki road and the applicants also showed the same road in their memorandum statement. He further submits that both the applicants have been identified by one hotel owner from whom they purchased food packets. He submits that criminal cases are pending against applicant Bendrya. He, therefore, prays for rejection of the applications.

6. Charge-sheet is filed. The only connecting link the prosecution could unravel is the seizure of clothes. Blood stained clothes were seized from the shrubs of Babhali near Walki road. This disclosure was made by applicant Dilip Bhosle. Motorcycle was also seized from applicant Bendrya. However, C. A. report is not produced. Thus there appears to be no *prima facie* case against the applicants. Past criminal record will have relevance only if *prima facie* case is established in the case in which applicant is seeking bail. In this view of the matter, I am inclined to release the applicants on bail. Hence the following order :-

ORDER

- i) Both the applications are allowed.
- ii) Each of the applicants be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand) with one solvent surety each in the like amount in connection with Crime No. 0159/2021 registered with Rahata Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 396, 120-B of the Indian Penal Code, on condition that they shall not pressurise the witnesses and shall report to the concerned Police Station twice a

week i.e. on every Monday and Thursday between 10.00 am and 4.00 pm.

iii) Both the applications stand disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

dyb