

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

BAIL APPLICATION NO. 97 OF 2022

**SANGRAM PRAKASH KANDEKAR
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. R.R. Karpe
APP for Respondents/State : Mr. S.B. Narwade

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**CORAM : M.G. SEWLIKAR, J.
RESERVED ON : 25th March, 2022
PRONOUNCED ON : 8th April, 2022**

ORDER:-

Heard.

2. Prosecution case in brief is that deceased Rajaram Shelke was the father of the informant-Rahul Shelke. They own 36 acres of land at village Narayangavhan.

3. In the year 2010 criminal case was registered against informant and his father Rajaram Shelke for having murdered Prakash Kandekar. Both of them along with others have been convicted and have been sentenced to imprisonment for life.

4. In the year 2018, informant was on parole. At that time he had

been to Narayangavhan. While proceeding to the field, one Rajesh Shelke came there in a four wheeler, alighted from the vehicle and on seeing the informant he charged at him with stones in his hands and abused him in filthy language. Deceased-Rajaram Shelke also was on furlough. At that time deceased-Rajaram Shelke and brother of the informant by the name of Atul had been to the field. At that time also Rajesh Shelke and sons of Prakash Kandekar by the name of Sangram Kandekar (applicant), Aniket Kandekar and Bhushan Kandekar and Suryabhan Kandekar, Akshay Kandekar, Saurabh Kandekar and Ganesh Shelke brandished sickle to deceased-Rajaram Shelke and his son Atul and abused them. In the year 2019, whenever informant or his father Rajaram Shelke came on furlough, Rajesh Shelke, applicant and the sons of Prakash Kandekar would abuse and threaten them.

5. On 11th June 2021, Santosh Shelke who was working as Mukadam in the field made a call to Atul at 1.00 pm and told him that deceased-Rajaram Shelke was severely injured and he was taking him to hospital at Shirur. Therefore, informant and Atul went to Rural Hospital, Shirur and noticed that deceased-Rajaram Shelke was bleeding from the neck. During treatment deceased-Rajaram Shelke died. On these allegations FIR came to be lodged against the applicant and others under Section 302, 120-B read with Section 34 of the I.P.C. and under Section 4/25 of Arms Act vide

Crime No.183/2021 with Supa Police Station, District Ahmednagar.

6. Learned counsel Shri Karpe submitted that only on the basis of suspicion applicant and other accused have been arrested. Not a single piece of incriminating material is collected by the prosecution against the accused. The entire case is based on circumstantial evidence. He submitted that despite giving such serious threats, informant or deceased-Rajaram Shelke did not lodge any complaint with the police. This itself demonstrates the falsity in the prosecution case. The other accused have been granted regular bail. Therefore, on the ground of parity also the applicant is seeking bail.

7. Learned APP Shri Narwade opposed the application contending that the offence is serious in nature. He submitted that whenever the informant and deceased-Rajaram Shelke visited the field at Narayangavhan applicant and other accused threatened and abused them. He submitted that there is evidence against applicant and others having conspired to kill the deceased. Witness-Aruna Shelke and other witnesses have supported the prosecution. Witness-Santosh Shelke has stated that on 11th June, 2021 between 7.30 and 8.00 am he had seen applicant-Sangram, Harshal Chipade, Rajesh Shelke and two unknown persons making gestures in direction of the field of deceased-Rajaram Shelke. There is a video clip shot on mobile indicating that applicant and others were threatening the deceased. He

submitted that having regard to the seriousness and gravity of the offence applicant may not be released on bail.

8. Perused the record. From the evidence collected by the prosecution, it is seen that the entire evidence is circumstantial in nature. There is no eye witness to the incident. Only on the basis of suspicion applicant and other accused have been arrested by the prosecution. On perusal of the charge-sheet, it does not appear that weapon of offence is seized from any of the accused. Witness-Santosh Shelke has stated in his statement under Section 161 of the Cr.P.C. that he had seen applicant and other accused making gestures towards the field of the deceased-Rajaram Shelke. From this statement it does not indicate involvement of the applicant in the alleged offence. Witness-Aruna Shelke has stated that Rajesh Shelke had alighted from his car on seeing informant and had picked up stones and was about to assault and abused informant. It is pertinent to note that no report was made to the police about the alleged threats. Applicant does not have criminal antecedents. There is nothing on record to show that applicant will flee from justice. He has landed property at Narayangavhan. Having regard to all this, 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.40,000/- with one solvent surety in the like amount, in connection with Crime No.183/2021 under Section 302, 120-B read with Section 34 of the I.P.C. and under Section 4/25 of the Arms Act with Supa Police Station, District Ahmednagar on condition that he shall not tamper the prosecution evidence.
- 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.]