

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

917 BAIL APPLICATION NO.109 OF 2022

Amol Murlidhar Lavange
Age: 29 years, Occu.: Private Service,
R/o. Dada Nagar, Nadgaon,
Tq.Bodwad, District Jalgaon. ..Applicant

VERSUS

The State of Maharashtra ..Respondent

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Advocate for Applicant : Shri Satej S. Jadhav
APP for Respondent : Shri A.V.Deshmukh
Advocate for Informant : Shri Vishnu M. Jaware

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CORAM : M.G.SEWLIKAR, J.

DATE: 3rd March, 2022

PER COURT :-

1. Applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.0118 of 2020, registered with Muktainagar Police Station, District Jalgaon, under Sections 302, 120-B, 201 of the Indian Penal Code and under Sections 4, 25 of the Arms Act.

2. Facts in brief are as under :-

(a) Deceased Dinkar Patil was a cousin of the informant. Deceased was in politics since last 20 years and was the

President of Panchayat Samiti, Muktainagar. One Pramod Shaligram Patil used to be with the deceased. The said Pramod Shaligram Patil communicated to the informant on 17th June, 2020 at 5.15 p.m. that Pramod, Vijay Patil and the deceased were chatting till 2:30 a.m. on 16th June, 2020 at Dwarka Kisan Petrol Pump. Pramod further communicated the informant that all of them slept in the ground in front of said Petrol Pump. At 5:00 a.m. when Pramod Patil woke up he found Dinkar in a pool of blood. Throat of Dinkar was slit by means of some sharp weapon. When the informant visited the spot of the incident, he found the deceased lying in a pool of blood. Therefore, he lodged the First Information Report on 17th June, 2020 on the basis of this First Information Report, offence under Section 302, 120-B, 201 of the Indian Penal Code and under Section 4, 25 of the Arms Act came to be registered.

(b) It is further alleged that on 19th June, 2020 supplementary statement of the informant was recorded. In the supplementary statement, informant stated that Vilas Mahajan and Tejrao Patil were not on good terms with deceased Dinkar. Tejrao Patil used to oppose deceased Dinkar in the social and political work. Accused Tejrero Patil and Vilas Mahajan were jealous of deceased Dinkar. On 2nd April 2020 at 6:00 to 07:00 p.m., there was a

quarrel between Dnyaneshwar Tambe, Ramrao Patil, Santosh Patil, Shivaji Patil, Ajabrao Patil and Nandabai Patil. In this quarrel, father of Vilas Mahajan by the name of Ramkrushna sustained injury to his head. At that time, deceased Dinkar had convinced Vilas Mahajan owing to which, Vilas Mahajan did not lodge complaint against Santosh Patil, which did not go down well with Vilas Mahajan and Tejrao Patil. It is further alleged that Ramrao Patil had lodged complaint against Santosh and his relatives on the basis of which crime No.57 of 2020 under Sections 324, 504, 506 read with Section 34 of the Indian Penal Code came to be registered. Deceased Dinkar had helped Santosh and his relatives to get bail. For this reason, suspicion was expressed by the informant that accused Tejrao Patil and Vilas Mahajan had committed murder of the deceased.

(c) During investigation, it transpired that Vilas Mahajan and Tejrao Patil had given contract to Kartik Jadhav for killing the deceased. It is further alleged that accused Tejrao Patil and Vilas Mahajan hatched a conspiracy to commit the murder of the deceased Dinkar. Accused Tejrao and Vilas Mahajan took help of accused Sayyad Shabbir and they agreed to pay Rs.2,50,000/- to Nilesh Gurchal and Kartik Jadhav for committing murder of the deceased. It is further alleged that on 17th June, 2020. during

night time, Nilesh Gurchal, Kartik Jadhav and Amol Lavange (applicant) came on the Motorcycle at the spot of the incident. Accused Sayyad Shabbir made sure that the deceased was there in the premises of the said Petrol Pump. Accused Nilesh Gurchal brought knife with him. Accused committed murder of the deceased by knife and fled. Accordingly, amount of Rs.2,50,000/- was paid to Nilesh Gurchal and Kartik Jadhav by accused Nos.1 and 2.

3. After completion of investigation, charge-sheet is filed.

4. Heard Shri S.S.Jadhav, learned counsel for applicant, Shri A.V.Deshmukh, learned counsel for the respondent-State and Shri Vishnu M.Jaware, learned counsel for the informant.

5. Shri Jadhav, learned counsel for the applicant submits that there is no evidence to connect the applicant with the offence. The only evidence on which prosecution relies is the confessional statement of co-accused under Section 27 of the Evidence Act, which is inadmissible in evidence.

6. Shri Deshmukh, learned APP for the respondent-State and Shri Jaware, learned counsel for the informant submit that

Motorcycle has been seized from the applicant. They submit that this Motorcycle was used by the assailants to reach the spot of the incident. They submit that the confessional statement under Section 27 of the Evidence Act shows that accused Nos.1 and 2 had given contract of killing deceased Dinkar Patil to the applicant and other accused. Shri Jaware, learned counsel for the informant submits that mental state of the accused who has given memorandum has also to be considered. He submits that there is CDR record indicating that the applicant and other accused were in constant touch with each other. He submits that having regard to the evidence collected by the prosecution, application deserved to be rejected.

7. On perusal of the charge-sheet, it appears that memorandum under Section 27 of the Evidence Act of accused Nilesh was recorded. During recording of memorandum under Section 27 of the Evidence Act, name of the applicant was disclosed. However, this piece of evidence is of no assistance to the prosecution as the confession before the Police Officer is not admissible in law in view of embargo created by Sections 24 and 25 of the Evidence Act. Even if this confessional statement is considered, it is seen that fatal blow was not given by the applicant but it was given by Nilesh. Except this evidence, there

is no evidence to connect the applicant with the offence. In view of this, following order is passed :-

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on bail on his furnishing P.R.Bond of Rs.25,000/- (Rs. Twenty-five thousand only) with one solvent surety in the like amount, in connection with Crime No.0118 of 2020, registered with Muktainagar Police Station, Dist.Jalgaon, under Sections 302, 120B, 201 of the Indian Penal Code and under Sections 4/25 of the Arms Act, and on condition that he shall not tamper the prosecution evidence. Applicant shall not leave the jurisdiction of the Court without prior permission of the Court. He shall provide his cell phone number to the concerned Police Station. In case of change in number, he shall provide new mobile number to the concerned Police Station.
- iii) Bail Application is 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**