

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

908 BAIL APPLICATION NO.198 OF 2022

Dilip s/o Aabasaheb Goyakar
Age' 36 years, Occu.: Agri.
R/o. Aarsoli, Tq.Bhoom,
Dist.Osmanabad.

..Applicant

VERSUS

The State of Maharashtra
(Through the Police Station
Paranda, Tq.Paranda, Dist.Osmanabad)

..Respondent

...
Advocate for Applicant : Shri Ganesh J. Kore
APP for Respondent : Shri G.O.Wattamwar

...
CORAM : M.G.SEWLIKAR, J.

DATE: 6th April, 2022

PER COURT :-

1. Heard.
2. Applicant is the brother of Vilas Aabasaheb Goyakar (since deceased). The dead body of Vilas was found adjacent to the road from Aarsoli to Devalali. The dead body was having injuries. Therefore, FIR was lodged against unknown person for having murdered deceased Vilas.
3. During investigation, it transpired that applicant had given extra judicial confession to his wife. From the statement of his

wife Sarika, it appears that applicant had given extra judicial confession that he had snatched the axe from deceased Vilas and killed him and threw his dead body in the village at Devalali. Accordingly, applicant was arrested.

4. Shri G.J.Kore, learned counsel for the applicant submits that the statement of Sarika under Section 164 of the Code of Criminal Procedure shows that the applicant exercised his right or private defence. He submits that applicant snatched the axe from deceased Vilas and killed him. He further submits that except this evidence, there is no evidence against the applicant.

5. Shri G.O.Wattamwar, learned APP for the respondent submits that extra judicial confession shows that the applicant assaulted the deceased Vilas. He submits that on the door of the house of the applicant there were blood stains and they were of human. Axe is recovered at the instance of the applicant. He submits that considering this evidence, applicant may not be released on bail.

6. From the tenor of the statement of Sarika under Section 164 of the Code of Criminal Procedure, it appears that applicant snatched axe from deceased Vilas. Shri Kore, learned counsel for

the applicant submits that deceased Vilas was facing trial under Section 302 of the Indian Penal Code. Learned APP also endorses this fact. Having regard to this, the possibility of applicant exercising his right of private defence cannot be ruled out. Axe has been recovered at the instance of the applicant. However, it has no blood stains. In this view of the matter, I am inclined to release the applicant on bail. Hence, the order :-

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.20,000/- (Rs. Twenty thousand only) with one solvent surety in the like amount, in connection with Crime No. 0322 of 2021, registered with Paranda Police Station, Dist.Osmanabad, under Sections 302, 201 of the Indian Penal Code, and on condition that he shall not tamper with the prosecution evidence.
- iii) Bail Application is disposed of.
- iv) It is clarified that the observations made in this 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**