

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

BAIL APPLICATION NO. 1651 OF 2021

Santosh Anjiram Jadhav	... Applicant
Versus	
The State of Maharashtra	... Respondent

**WITH
BAIL APPLICATION NO. 220 OF 2022**

Umesh Arjun Tode	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. S. J. Salunke, Advocate for applicant in BA/1651/2021
Mr. S J. Rahate, Advocate for applicant in BA/220/2022
Mr. S. P. Sonpawale, APP for respondent - State

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CORAM : R. G. AVACHAT, J.

**RESERVED ON : 18th JULY, 2022
PRONOUNCED ON : 20th JULY, 2022**

PER COURT :-

. Both these applications for bail, are decided by this common order since they arise from one and the same crime i.e. Crime No.236/2019, registered with Parbhani Rural Police Station, District Parbhani, for the offences punishable under Sections 302, 304-A, 279, 120-B, 201 r/w 34 of the Indian Penal Code.

2. The Advocates for the applicants would submit that the deceased Prakash died due to motor vehicle accident. A report in that regard was lodged with the concerned police station. The same was investigated as well. The postmortem report also indicate the cause of death to be road traffic accident with multiple cerebral hemorrhagic contagion with hemorrhagic shock, however, viscera preserved. According to the learned Advocates the brother of the deceased changed his version and came with a case of murder of his brother. He first reported to be an accidental case on 03.10.2019. After about 14 months thereafter, he changed his version alleging it to be a case of murder. As such, the statements came to be recorded long after the crime punishable under Section 304-A was registered and investigated as well. According to the learned Advocates, the disclosure statements made by the applicants are confessional in nature. They are inadmissible in evidence. Both of them, therefore, urge for grant of bail.

The learned APP would, on the other hand, submit that it is a case of conspiracy. The deceased was murdered for obtaining money under his life insurance policy. The murder is shown to be a

death occurred in motor accident. The learned APP relied on certain statements of the witnesses to indicate involvement of the applicant Santosh Jadhav in the crime in question.

3. Considered the submissions advanced. Perused the relevant police papers. This Court finds no incriminating material as against the applicant Umesh Tode (B.A. No.220 of 2022). He would, therefore, be entitled for grant of bail.

4. So far as regards applicant Santosh Jadhav is concerned, he is a Police Constable. The report of accidental death was lodged by the brother of the deceased. He had admittedly not witnessed the accident. The dead body of deceased Prakash was found by road side. There was no evidence indicating involvement of any motor vehicle. Only from the appearance of his dead body, the persons in the nearby thought it to be a case of motor accident. There is not a single witness claiming to have had seen motor vehicle knocked down the deceased and ran away. It was therefore but natural that the matter came to be reported as a death occurred in motor vehicle accident.

5. There is material to indicate that the deceased had relationship with one lady, by name Meera (co-accused). The deceased was already married and blessed with children. He would reside along with his wife and children. Just two months before the policy of insurance was purchased by him, that lady (Meera) had accompanied him to the agent for purchase of policy of insurance. There is evidence to indicate that a premium of Rs.50,000/- was paid by the applicant Santosh herein. The deceased died within two months of purchase of the policy. Only one installment of premium was paid. The statement of Rupali Jadhav with whom the applicant Santosh Jadhav was involved, has categorically stated that on the day on which the deceased is shown to have died, she had called the deceased on cell-phone at the instance of applicant Santosh. The deceased, accordingly, came. The applicant Santosh and two others took him to bushes. It was the night time. She heard some cries. Applicant Santosh came back. The deceased did not. The applicant Santosh had kept her cell phone with her. The CDR indicates number of phone calls on the given day and on some days before between the deceased and Rupali. Admittedly, Meera was not legally wedded

wife of the deceased Prakash. Within months of the demise of Prakash, she applied for receipt of amount under the policy of insurance. Her application was signed by Santosh as a witness. There is material to indicate that the deceased was killed at some other place and his dead body was brought and dropped at Parbhani – Manwat road, near old RTO office, whereat it was found. As per the prosecution case, the deceased was hit on his head with iron rod. The postmortem report indicate a head injury. As such, there is strong prima-facie material to indicate the applicant Santosh's involvement in the crime in question. He has criminal antecedents as well. The Court is therefore not inclined to grant him, bail. Hence, I pass the following order:

ORDER

- (i) Bail Application No. 1651 of 2021 is rejected.
- (ii) Bail Application No. 220 of 2022 is allowed.
- (iii) The applicant Umesh Arjun Tode (Bail Application No. 220 of 2022) be released on bail in connection with Crime No.236/2019, registered with Parbhani Rural Police Station, District Parbhani, on his executing P. R. bond in the sum of Rs.15,000/-

(Rupees Fifteen Thousand) with surety bond of the like amount.

- (iv) The applicant Umesh shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

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