

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

BAIL APPLICATION NO. 569 OF 2022

Arif Nisar Soudagar	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Ganesh J. Kore, Advocate for applicant
Mr. R. B. Bagul, APP for respondent - State

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CORAM : R. G. AVACHAT, J.

DATED : 06th SEPTEMBER, 2022

PER COURT :-

1. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0054/2021, registered at Washi Police Station, District Osmanabad, for the offence punishable under Section 302 of the Indian Penal Code.

2. Heard. Perused the First Information Report (FIR) and related papers.

The FIR has been lodged by the son of the deceased on 23.01.2021. The prosecution case in short is that the deceased – Vitthal was alcoholic. He would consume daily and wander

anywhere. He left his home on 22.01.2021. He was in drunken state all day. He even did not return home in the evening. There is a petrol pump in the village. Shri Deepak Limkar, the owner of the petrol pump told the informant on cell phone that his father was lying on a platform near his petrol pump. He asked the informant to take him home. The informant therefore left the house to bring his father back home. The father was, however, not found at the place. While making search for the informant's father, he (father) was found lying injured in a mango orchard of one Kaka Chavan. It was found that head of the deceased was smashed with the stone. Trouser and underwear of the deceased was removed from his person.

3. The crime was therefore registered against unknown person. During investigation, it was found that the applicant was serving with Deepak Limkar. The applicant too was addicted to liquor. There was quarrel between him and the deceased. The applicant therefore committed murder of the informant's father.

4. The learned Advocate for the applicant would submit that the applicant is in jail for about twenty (20) months. He is 21 years of age. Trial has not yet commenced. The case is based on

circumstantial evidence. He, therefore, urged for grant of application.

5. The learned APP would, on the other hand, submit that the applicant was last seen in the company of the deceased. The blood stains on his 'T' shirt was recovered pursuant to the disclosure statement. Dog tracking evidence is against the applicant. He, therefore, urged for rejection of the application.

6. Perused the FIR and the related papers. The case is based on circumstantial evidence. The applicant is 21 years of age. He is in jail for little over twenty (20) months. Trial has not yet commenced. The deceased was alcoholic. The CA report pertaining to the 'T' shirt of the applicant, recovered pursuant to his disclosure statement, is inconclusive. The sniffer dog did not lead anywhere close to the applicant. Although one Balasaheb Chavan in his statement under Section 161 Cr.P.C. claimed to have had seen the applicant and the deceased together at the material time, did not support the prosecution in his statement under Section 164 Cr.P.C. He stated to have had seen the deceased and one unknown person together. He even claimed ignorance as to whether the other person in the company of the deceased was drunk.

Without observing anything more, suffice it to say that the aforesaid material leads this Court to grant the applicant, bail.

Hence, following order:-

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0054/2021, registered at Washi Police Station, District Osmanabad, for the offence punishable under Section 302 of the Indian Penal Code, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]