

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

BAIL APPLICATION NO. 743 OF 2022

Deelip Govindrao Junne

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. U.B. Bilolikar, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 19th JULY, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 202 of 2021 registered with Mukhed Police Station, Dist. Nanded for the offence punishable under Section 302 of the Indian Penal Code.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by son of the deceased on 06th July, 2021. The applicant is the uncle of the informant. The informant's father had an agricultural land at village Berali. The applicant's land is adjacent to

the land of the informant's father. The applicant is alleged to have been addicted to alcohol and *ganja*. There used to be frequent quarrel between the applicant and the father of the informant. It so happened that the informant's father was found dead in his field on 06th July, 2021. He had suffered a head injury. A stone used to assault him was found near the dead body. The applicant's wife told the informant about the same.

4. Role of the applicant in committing murder of his own brother was suspected. He was, therefore, arrested. The applicant's wife gave a statement that on the previous night, the applicant after taking dinner had gone out. He came home late. When both, the applicant and his wife saw the deceased dead in the morning, she even enquired with the applicant whether it was the act done by him. There is statement of widow of the deceased and some others to indicate that she (widow of the deceased) had offered some eatable (*prasad*) to a God. Then she was distributing the same to others. She offered the *prasad* to the applicant, who refused to receive the same and said her that he will give her *prasad* on one day. That time he was armed with an axe. The applicant had rushed on the person of the deceased. It was a quarrel over the cattle of the deceased to have entered the applicant's field.

5. The learned A.P.P. would submit that it is a serious offence. The applicant has committed murder of his own brother. Trial Court can be

directed to expedite the hearing of the case. He, therefore, urged for rejection of the application.

6. It is a case based on circumstantial evidence. The applicant is said to be alcoholic and addicted to *ganja* as well. There is material to indicate that all was not well between the two brothers, the applicant and the deceased. He had even rushed on the person of the deceased with an axe. It was a quarrel over cattle of the deceased entered the applicant's field. Because of the behavior of the applicant with the deceased, his role in the offence in question was suspected. The only incriminating material about the offence in question against the applicant is the statement of his wife wherein she stated that on the previous day of the said incident the applicant had, after having dinner, left the house and came home late. There is, however material to indicate that on the following day, both the applicant and his wife went to the field and saw the deceased dead. On enquiry by wife with the applicant as to whether it was his act, he denied the same. There is also material to indicate that the applicant himself had reported some of the relations to have seen the deceased dead. The only material sought to be connected with the applicant is his disclosure statement pursuant to which the clothes on his person at the relevant time came to be seized. It has been one year since seizure of those clothes. The clothes have been sent to the Central Science Forensic Laboratory. The report has not yet been received.

As such, the recovery of clothes pursuant to the disclosure statement made by the applicant is not much relevant to refuse to grant him bail. It is reiterated that it is only on the strong suspicion the applicant has been named as an accused in this case. The material sought to be relied on that connects the applicant with the offence in question leads this Court to grant him bail. These are the observations only for grant of bail.

7. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released, in connection with Crime No. 202 of 2021 registered with Mukhed Police Station, Dist. Nanded for the offence punishable under Section 302 of the Indian Penal Code, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(III) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD