

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

BAIL APPLICATION NO.967 OF 2022

Sunil Kisan Mali

... APPLICANT

VERSUS

The State of Maharashtra

... RESPONDENT

.....
Mrs. Pooja V. Langhe, Advocate for applicant
Mr. R.B. Bagul, A.P.P. for respondent – State
.....

CORAM : R. G. AVACHAT, J.

DATE : 17th AUGUST, 2022.

PER COURT :

Heard Mrs. Langhe, learned counsel for the applicant. 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.I-482/2021, registered with Newasa Police Station, District Ahmednagar for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code (Sessions Case No.57/2021).

2. The F.I.R. has been lodged by the Police Patil of the village Warkhed on 6/7/2021. As per the averments in the F.I.R., a dead body of the child in the age group of 8 – 10

years was found in a canal passing by the agricultural land of one Dattatraya More. It was found that the head of the deceased was smashed with a stone. The post mortem report indicates the deceased died of head injuries. The F.I.R. was lodged against unknown person.

3. During the investigation of the crime, it was said to have been revealed that the applicant and the co-accused had extra-marital relationship inter-se. Both of them conspired and consequently eliminated the son of the co-accused.

4. The learned counsel for the applicant would submit that, the co-accused has been granted bail. The prosecution material indicates that the co-accused was last seen in the company of the deceased whereas the applicant was even not around. According to learned counsel, it is a case of as good as no material to connect the applicant with the crime in question. As regards blood stains on the clothes seized from the applicant is concerned, there is no C.A. report. The learned counsel, therefore, urged for grant of the application.

5. The learned A.P.P. would, on the other hand, submit that, it is a case based on circumstantial evidence.

The applicant and co-accused had extra-marital relationship. The applicant herein gave a disclosure statement and pointed out the spot of the incident. His blood stained clothes have also been seized. The C.A. report is, however, awaited. He, therefore, urged for rejection of the application.

6. Considered the submissions advanced. The case is based on circumstantial evidence. The applicant has been behind the bars for little over one year. The co-accused has been granted bail. It is not the case of the prosecution that the applicant was last seen in the company of the deceased. The only incriminating material sought to be put against the applicant is the disclosure statement made by him, pursuant to which the scene of offence was identified. Needless to mention, the spot of incident had already been discovered. As regards blood stained clothes of the applicant are concerned, for little over one year there are no C.A. reports forthcoming. Without observing anything further, the Court finds it to be a case for grant of bail to the applicant in the light of the circumstances referred to hereinabove. Hence the order :-

ORDER

- (i) The Bail Application is allowed.

(ii) The applicant be released on bail in connection with Crime No.I-482/2021, registered with Newasa Police Station, District Ahmednagar for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code (Sessions Case No.57/2021) on his 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 attend the concerned police station once a week i.e. on every Sunday between 11.00 a.m. and 12.00 noon until conclusion of the trial.

**(R. G. AVACHAT)
JUDGE**

fmp/-