

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

BAIL APPLICATION NO.1120 OF 2022

Sandip @ Jonty s/o. Balasaheb Girhe	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr.B.P.Pande, Advocate for applicant
Mr.S.P.Sonpavale, APP for respondent-State

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 15, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0136 of 2018 registered with Kotwali Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 303, 120-B, 143, 144, 145, 147, 148, 149, 504, 506 read with Section 34 of Indian Penal Code and Sections 3/25 and 4/25 of the Indian Arms Act.

2. Heard learned counsel appearing for the parties.
3. This is the second application of the present applicant for bail. The earlier application has been disposed of as withdrawn. Learned counsel for the applicant first took this court through the FIR

and related police papers to ultimately submit that the applicant did not have any role in the offence in question. He, therefore, urged for grant of application.

4. Learned APP would, on the other hand, submit that it is a case of two murders. The offence is serious one. Involvement of the applicant is writ large. The applicant has been unsuccessful in earlier attempt to get bail. According to learned APP, there is Call Details Record (C.D.R.) to indicate the applicant and the co-accused to have been in constant contact with each other on the fateful day. He, therefore, urged for rejection of the application.

5. It is true that the applicant's earlier bail application has been turned down. The applicant has been behind the bars for four and half years. Charge has not yet been framed. The FIR has been lodged by the son of the deceased on 07.04.2018. On the given day, there was counting of votes of by-election for electing municipal Corporator from ward No.32 in Ahmednagar. The informant's father (deceased Sanjay) was member of Shiv Sena. There has been a history of quarrel and disputes between him and other Shiv Sena members on one hand and the local leaders and M.L.A. of Indian National Congress and Nationalist Congress Party, on the other.

It is also the case of the informant that his father Sanjay was shot dead. He was also assaulted with sharp weapons. Soon before he breathed last, he had made a call on the cellphone of the informant informing names of the assailants and others involved in the crime.

6. The informant is not an eye witness to the incident. One, who had shot dead the informant's father and one Vasant Thube, surrendered before Parner Police Station, on his own. He also surrendered a country-made revolver and two *Guptis* to the Officer in-charge of the police station.

7. As per the case of the prosecution itself, the applicant was not one of the assailants. The incriminating role attributed to him is stated to be that he was present at a short distance of the scene of offence at the material time and when people were going towards the scene of offence, he asked some of them not to go towards that place. The prosecution meant to say that the applicant was facilitating the assailants to commit the crime without hindrance of anyone. Same is, however, not evident from the statements of witnesses.

8. Admittedly, the residence of the applicant was within the radius of 300 mtrs. from the scene of offence. His presence in that vicinity is, therefore, but natural. The applicant has no criminal antecedents. He has been behind the bars for about four and half years. Charge has not been framed. The flow of the chart indicating the telephonic conversation placed on record by the learned counsel for the applicant, indicates that the applicant was not in contact with any of the co-accused on the given day.

9. In the above facts and circumstances of the case, this court is inclined to grant the applicant bail.

10. Hence, the following order:-

- (i) The application is allowed.
- (ii) The applicant be released in connection with Crime No.0136 of 2018 registered with Kotwali Police Station, Dist. Ahmednagar, on executing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one surety in the like amount, for the offences punishable under Sections 302, 303, 120-B, 143, 144, 145, 147, 148, 149, 504, 506 read with Section 34 of Indian Penal Code and Sections 3/25 and 4/25 of the Indian Arms Act.

- (iii) The applicant shall not tamper with the prosecution evidence.
- (iv) Until conclusion of the trial, the applicant shall not enter Ahmednagar District.

[R.G. AVACHAT, J.]

KBP