

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

BAIL APPLICATION NO. 1128 OF 2022

Gorakhnath Jagannath Mangate

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. N.S. Ghanekar, Advocate for applicant
Mr. N.T. Bhagat, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATE : 25th AUGUST, 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. 301 of 2021 registered with Pishor Police Station, Dist. Aurangabad 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 brother of the applicant on 29th December, 2021. It has been averred in the F.I.R. that the informant himself,

applicant, their wives and parents had been to the village for attending a marriage in the family of one of their relations by 07.00 p.m. on 28th December, 2021. After taking meals in the marriage, the parents of the informant, his wife and the applicant as well went back home one after the other. The informant received a phone call of his wife by 07.50 p.m. to learn that his father was lying injured in a *nala* near their land. The informant, therefore, rushed there to find his father suffered head injury. He, therefore, rushed his father to Government Hospital, Sillod. The medical officer there declared him dead.

4. The F.I.R., therefore, came to be lodged alleging that an unknown person committed murder of father of the informant for unknown reason. The crime was investigated. It was revealed during investigation that there used to be frequent quarrel between the applicant and his father over the father (deceased) suspecting the applicant's wife to have extra marital relationship with the informant. One such quarrel was found to have been recorded in a cell phone. The script thereof is a part of police papers. The said script indicates the applicant to have observed that "if the wife was of not good behavior, he would kill her and if allegations against her are found untrue, the one, who make such allegations, would be eliminated". The applicant was arrested pursuant to the disclosure statement made by him. His blood stained clothes were recovered. The C.A. report indicates the

clothes of the applicant had blood stains of the blood group of the deceased. On investigation, the charge-sheet has been filed.

5. Learned counsel for the applicant would submit that the case is based on circumstantial evidence. The applicant had no motive to commit murder of his own father. The recorded conversation/quarrel dates back to the period of one month before the alleged incident. The applicant had admittedly lifted his injured father and his clothes, therefore, had stains of blood of the deceased. He, therefore, urged for grant of the application.

6. Learned A.P.P. would, on the other hand, submit that it is a serious offence. The conversation/quarrel recorded in the cell phone would indicate the applicant had decided to eliminate his father as he (father) had suspected his wife to have illicit relationship with the informant. Clothes of the applicant were stained with blood of the deceased. The alleged fact that the applicant had lifted the deceased had been revealed for the first time in the fifth statement given by his wife. The same indicates the exercise to save her husband - applicant herein. The applicant had not accompanied the informant to take his father to the hospital. He, therefore, urged for rejection of the application.

7. Considered the submissions advanced. The case is based on circumstantial evidence. The F.I.R. indicates that after taking meals in the

marriage, the deceased alongwith his wife had left the marriage place for home. The applicant too had left the said place for home. The deceased was found lying injured in a *nala*. There is no case of last seen together theory. The deceased is none other than father of the applicant. True, the wife of the applicant in her earlier three statements did not state the applicant to have had lifted the injured. She however, in her statement under Section 164 of Code of Criminal Procedure stated the same. Same is said to be the reason for clothes of the applicant to have stained with the blood of the deceased. This, therefore, may not be an incriminating circumstance. So far as regards the recorded conversation/quarrel is concerned, the applicant has stated in the recorded conversation/quarrel that, "if the wife was of not good behavior, he would kill her and if allegations against her are found untrue, the one, who make such allegations, would be eliminated." The same had happened a month before the alleged incident. It is told that the informant is also present in the Court to ensure the applicant is granted bail. It is reiterated that the case is based on circumstantial evidence. On investigation, the charge-sheet has been filed. It will take time for commencement and conclusion of trial. Considering the material sought to be relied against the applicant to suggest his involvement in the crime, this Court is inclined to grant the applicant bail.

8. 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 on bail, in connection with Crime No. 301 of 2021 registered with Pishor Police Station, Dist. Aurangabad 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