

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

BAIL APPLICATION NO.1127 OF 2022

Ramdas Madhav Valte

... APPLICANT

VERSUS

The State of Maharashtra

... RESPONDENT

.....
Ms Pradnya Talekar, Advocate for Talekar & Associates,
for the applicant

Mr. A.V. Deshmukh, A.P.P. for the respondent – State

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CORAM : R. G. AVACHAT, J.

DATE : 29th AUGUST, 2022.

ORDER :

Heard. 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.88/2020, registered at Kopergaon Rural Police Station, District Ahmednagar for the offences punishable under Sections 302, 452, 143, 147, 148, 149, 120-B, 75 of the Indian Penal Code, Sections 3/25, 4/25, 7/25 and 27 of the Indian Arms Act.

2. The First Information Report (F.I.R.) has been lodged by the father of the deceased – Suresh on 16/3/2020. It is averred in the F.I.R. that, there had been bad blood between the deceased and one Ravi Shete (accused No.1)

since 2010. Number of crimes have been registered against each other at Kopargaon Police Station. The reason behind animus between the two was said to be, the deceased would lodge report with police and revenue authorities regarding co-accused Ravi Shete to have indulged in unauthorised excavation of sand and transportation thereof. Deceased Suresh had come his home on 15/3/2020 since order of his externment from Kopargaon has been cancelled by the concerned authority.

2. It is further averred that, it was 6.45 p.m., the informant was present in a *Padvi* of his house. The deceased was in the middle room. His wife and mother were in the kitchen. The informant had purchased one machine regarding agricultural operations. Persons from the nearby were visiting his house to see the machine and even meet deceased Suresh. A white Swift Car and a black Pulsar motorcycle arrived at the informant's house. There were two persons on the motorcycle. Four were in the Car. All of them came to the house of the informant. Two of them were accused Ravi Shete and Vijay Kharde. Accused Ravi was armed with a revolver. He opened fire at Suresh. Suresh suffered bullet injury. Suresh ran out of the house from the back side door. He went to a maize field just behind his house. The culprits

followed him. Ravi Shete and Vijay Kharde again opened fire at deceased Suresh. Others assaulted the deceased with seythe and swords. After having confirmed the victim Suresh to have died, all of them went away.

3. On investigation, the charge sheet came to be filed. This is second bail application of the present applicant. The earlier one was rejected on merits on 14/10/2020. The applicant preferred Special Leave Petition before the Hon'ble Supreme Court. The same, however, came to be withdrawn with a liberty to file a fresh application for grant of bail before the High Court.

4. Heard. The learned counsel for the applicant would submit that, the name of the applicant has not been figured in the F.I.R. and even the statement of the eye witnesses which were recorded first in point of time. It is only after two months of the alleged incident the informant and 2 – 3 others named the applicant as one of the assailants. On applicant's arrest, a test identification parade was held. Neither the informant nor the so called eye witnesses could identify him in test identification parade, except the widow of the deceased and one more person. According to learned counsel, description of the applicant has not been given in the

F.I.R. or even police statements of the witnesses. The applicant has no criminal antecedents. He has been behind the bars for little over 26 months. Charge has not been framed. It will take time for commencement of the trial and conclusion thereof. He, therefore, urged for grant of the application.

5. The learned A.P.P. would, on the other hand, submit that, earlier application of the applicant was rejected on merits. The grounds which were urged during hearing of the first bail application could not be allowed to be reagitated. According to learned A.P.P., the applicant has been identified in test identification parade by the widow of the deceased and others as well. The offence is serious one. The deceased was brutally murdered. He, therefore, urged for rejection of the application.

6. It is true that earlier application moved by the applicant was rejected on merits way back on 14/10/2020. The applicant had preferred Special Leave Petition before the Hon'ble Supreme Court against rejection of his application for bail. The Special Leave Petition came to be withdrawn with grant of liberty to move a fresh application before this Court. The applicant is behind the bars for little over 26 months.

Charge has not been framed. When as per the eye witness account the assailants were six in number, the charge sheet is filed against 16 persons. Out of six assailants, names of only two have been given in the F.I.R. Description of other assailants does not figure therein. Admittedly, the name of the applicant does not figure in the F.I.R. nor his description has been given therein. On arrest of the applicant, he was subjected to test identification parade. The informant although identified some of the other culprits, failed to identify the applicant herein. Same is the case about other 2 – 3 witnesses. It is true that the widow of the deceased and her 11 year old daughter claim to have identified the applicant. The widow of the deceased had also not given the applicant's name in her statement recorded at the earlier point of time. It is only after two months of the incident the widow and her daughter named the applicant in their statements. It is the case of the applicant that he is not unknown to the family members of the deceased who was residing in the nearby of the residence of the informant. The applicant has no criminal antecedents. He has been behind the bars for little over 26 months. Charge has not yet been framed. All these facts lead this Court to grant to the applicant bail. Hence the order :

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.88/2020, registered at Kopargaon Rural Police Station, District Ahmednagar for the offences punishable under Sections 302, 452, 143, 147, 148, 149, 120-B, 75 of the Indian Penal Code, Sections 3/25, 4/25, 7/25 and 27 of the Indian Arms Act (Sessions Case No.35/2020 pending before the Additional Sessions Judge, Kopargaon) 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 every day between 7.00 p.m. and 8.00 p.m.
- (iv) The applicant shall not tamper the prosecution evidence in any manner.

(R. G. AVACHAT, J.)

fmp/-