

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

BAIL APPLICATION NO. 1324 OF 2022

Santosh @ Soham Kashinath Pawar	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. S. R. Bagal, Advocate h/f Mr. B. N. Gadegaonkar, Advocate for applicant

Mr. S. P. Sonpawale, APP for respondent - State

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CORAM : R. G. AVACHAT, J.

DATED : 19th SEPTEMBER, 2022

PER COURT :-

1. 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.0273/2022, registered at Ambad Police Station, District Jalna, for the offence punishable under Section 302 of the Indian Penal Code.

2. Heard. Perused the First Information Report (FIR) and related papers.

The FIR has been lodged by the brother of the deceased on 13.05.2022. It is his case that both, he himself and his brother Vinod (deceased) were the professional drivers. On the given day,

the informant had been to Sangli in his own transport vehicle. The deceased Vinod along with the applicant, son of parental Aunt of the informant, had been to Dargah in another tempo. One Prakash Rathod told the informant on cell phone that Vinod was assaulted by someone with a knife. The informant suspected involvement of the applicant, since he (applicant) had been in the company of the deceased Vinod. He, therefore, lodged FIR against the applicant on suspicion.

3. On investigation, the charge-sheet has been filed against the applicant.

4. The learned Advocate for the applicant would submit that the case is based on circumstantial evidence. Except the fact of being in the company of the deceased, there is nothing to suspect applicant's involvement in the crime. He, therefore, urged for grant of application.

5. The learned APP would, on the other hand, submit that the applicant suffered injuries to his eyebrows. He was frightened. A knife has been recovered at his instance. He, therefore, urged for rejection of the application.

6. Considered the submissions advanced. Perused the FIR and the police papers relied on. The case is based on circumstantial evidence. The applicant is a cousin (son of paternal Aunt) of the deceased. Both of them had been to Dargah for 'Fair' (Jatra). At about 2.00 p.m., the deceased Vinod was found lying injured. He had received number of stab injuries.

True, the applicant was in his company. In spite of the incidence having been taken place in a broad day light and at a crowded place, there is no one claiming to have witnessed the incidence. One Prakash Rathod had told the informant about the incidence. His statement is based on hearsay. Then there is statement of one Machhindra Chavan. As per his statement, both, the deceased and the applicant had gone to consume liquor. After a while, the deceased was found injured. It was the applicant who fetched the tempo and rushed the injured to the hospital along with Kailas Chavan. True, pursuant to the disclosure statement made by the applicant, a knife came to be recovered. The CA report in that regard is inconclusive. As such, the fact that the applicant was in the company of the deceased while the deceased was injured, is the only circumstance against the applicant. True, he owes the same

explanation. He did not offer one. It is reiterated that the case is based on circumstantial evidence. The applicant is in jail for over four months. It will take time for commencement and conclusion of trial. I am therefore inclined to grant the applicant, bail. Hence, following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0273/2022, registered at Ambad Police Station, District Jalna, for the offence punishable under Section 302 of the Indian Penal Code, on his executing P R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]

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