

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

BAIL APPLICATION NO.1436 OF 2022

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| 1. | Bandu s/o. Sheshrao Bhoyar, | |
| 2. | Rajaram s/o. Devrao Jadhav | ..Applicants |
| | Vs. | |
| | The State of Maharashtra | ..Respondent |

Mrs.Rashmi Kulkarni, Advocate i/b. Mr.Sanket Kulkarni, Advocate for applicants

Mr.V.S.Badakh, APP for respondent

AND

BAIL APPLICATION NO.1423 OF 2022

- | | |
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| Vilas s/o. Govindrao Shinde | ..Applicant |
| Vs. | |
| The State of Maharashtra | ..Respondent |

Mr.G.R.Ingole, Advocate for applicant
Mr.V.S.Badakh, APP for respondent

AND

BAIL APPLICATION NO.1441 OF 2022

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| Vithal s/o. Bhagwanrao Ambhore | ..Applicant |
| Vs. | |
| The State of Maharashtra | ..Respondent |

Mr.G.R.Ingole, Advocate for applicant
Mr.V.S.Badakh, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 20, 2022**

ORDER :-

These applications have been filed under Section 439 of the Code of Criminal Procedure. The applicants have been arrested in connection with Crime No.99 of 2022 registered with Hadgaon Police Station, Tq. Hadgaon, Dist. Nanded, for the offences punishable under Sections 302, 120-B(1), 201 read with Section 34 of Indian Penal Code.

2. Heard learned counsel appearing for the parties.

3. The First Information Report (FIR) has been lodged by the Police Sub Inspector on 24.03.2022. He was entrusted with an enquiry into the unnatural death of Avinash Bandu Bhoyar. When he made inquiry with the family members of the deceased, it was revealed that Avinash died of strangulation. It was revealed that the deceased was heavily indebted. He was alcoholic as well. His father had to sell some of his lands to clear the debt of his son (deceased). The deceased started coming home drunk. He would abuse his mother. He was in the habit of watching folk dance (*Tamasha*) and wanted to marry such girl. As such, it became unbearable for his father. He, therefore, decided to eliminate him. All these facts have been disclosed by the father of the deceased to the informant. What

has been disclosed by the father of the deceased to the informant, being a Police Officer, would, therefore, be inadmissible.

4. It is also the case of the prosecution that the father of the deceased and his brother-in-law i.e. applicant - Rajaram, had discussion over the matter and the father of the applicant agreed to spend money for eliminating his own son. The applicant - Rajaram, in turn, engaged the applicants – Vilas and Vithal to do the needful.

5. On the given day, i.e. on 22.03.2022, the applicant – Bandu, father of the deceased, contacted Rajendra (witness). It is in the statement of Rajendra that Bandu met him in his field by 9.30 p.m. and told that his son Avinash (deceased) experienced chest pains. He, therefore, asked him to accompany. Then, the applicant – Bandu contacted Kondiba to have his four-wheeler to shift the deceased to the hospital. Rajendra had accompanied Bandu to Nivala Phata at Talani road. There, the applicant – Rajaram and two others were present with the deceased. The deceased was lying on the road. He was then shifted to the hospital, where the Doctor declared him dead before admission.

6. Witnesses – Rajendra and Kondiba did not name others two, who were present with Rajaram. The Investigating Officer also

did not take pains to hold test identification parade of those two namely, Vilas and Vithal. Bandu was away at home when the incident took place. As such, it is for Rajaram to come clean or to explain as to how Avinash came to be strangled. He has no reasonable explanation to offer. In the given circumstances, the Court is not inclined to grant bail to applicant-Rajaram.

7. In view of the above, learned counsel for the applicants came around to withdraw the application as regards applicant – Rajaram.

8. So far as regards the applicants – Vilas and Vithal are concerned, they are alleged to be contract killers. There is no material, which can be converted into an admissible piece of evidence. This Court is, therefore, inclined to grant them bail.

9. True, the father of the deceased (Avinash), Bandu, had made a false statement that the deceased had experienced chest pains. But, it is not known as to whether, he was in the know that his son has been strangled by his brother-in-law – Rajaram. Considering the material sought to be relied on against the applicant – Bandu, the Court is inclined to grant him bail.

10. Hence, the following order:-

(i) Bail Application No.1436 of 2022 filed by applicant – Rajaram s/o. Devrao Jadhav stands disposed of as withdrawn.

(ii) Bail Application No.1436 of 2022 filed by applicant – Bandu s/o. Sheshrao Bhoyar, Bail Application No.1423 of 2022 filed applicant – Vilas Govindrao Shinde and Bail Application No.1441 of 2022 of applicant – Vithal Bhagwanrao Ambhore are allowed.

(iii) The applicants - Bandu s/o. Sheshrao Bhoyar, Vilas Govindrao Shinde and Vithal Bhagwanrao Ambhore be released in connection with Crime No.99 of 2022 registered with Hadgaon Police Station, Tq. Hadgaon, Dist. Nanded, for the offences punishable under Sections 302, 120-B(1), 201 read with Section 34 of Indian Penal Code, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount.

(iv) They shall not tamper with the prosecution evidence.

(v) The trial Court is requested to frame charge within a period of two months from today and conclude the trial within a period of further six months.

(vi) If the trial could not be concluded within the time frame, the applicant - Rajaram s/o. Devrao Jadhav would be at liberty make an application for bail before the trial Court.

[R.G. AVACHAT, J.]

KBP