

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

921 BAIL APPLICATION NO.1470 OF 2022
WITH APPLN/3138/2022 IN BA/1470/2022

SANTOSH @ PINYA SAMSHER BHOSLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent-State : Mr. S. B. Narwade.
Advocate for Applicant in Cri. Application : Mr. Ingle K. A.

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CORAM : S. G. MEHARE, J.
DATE : 18.11.2022

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the complainant.

2. The allegations have been levelled against the applicant, who is the father-in-law of the deceased, that on the day of the incident, the applicant called the deceased to fetch his wife. So, the deceased and the complainant went to his house. When they reached at the house of the applicant, the applicant pushed their motorbike and removed its key. Thereafter, mother-in-law and wife of the deceased, so also her uncle came there. They also pushed their bike and fell them down. One of

the co-accused caught the hands of the deceased. The applicant, Santosh caught his legs. His mother-in-law and wife administered him poison. Then, the deceased fell unconscious. It has also been alleged that the applicant called the auto-rickshaw from the village. The applicant, his mother-in-law, his wife and the complainant took him to the hospital. He was treated in the hospital. He died on the very same day. On these accusations, a crime of murder can be registered against the applicant and others.

3. Learned counsel for the applicant would vehemently argue that the allegations have been levelled afterthought. The false story was cooked up after the mother of the informant came from Hyderabad on 20.04.2022. Thereafter, the crime was registered. He referred to the inquest panchanama and pointed out that during the inquiry of accidental death, the relatives of the deceased told police that the deceased had consumed the liquor and then the poisonous medicine. He would also argue that the conduct of the applicant is material. He took the deceased to the hospital. The deceased was not cohabiting with his wife. He was regularly consuming liquor and harassing his wife. He also referred to the Post Mortem Report and pointed out that there were no surface wounds or

injuries on the person of the deceased. If the applicant had administered the poison, there must have been some resistance injuries. The C.A. report also does not support the prosecution case. The prosecution has no evidence of who had brought the insecticide container. The family of the complainant is in the habit of lodging, false reports on such cooked-up stories. Their every report is delayed. Even subsequent to the arrest of the applicant, a similar report was filed against the relatives of the applicant. The applicant has been falsely implicated in the crime. The deceased consumed the poison in front of the applicant's house and levelled false allegations against him and his family. Hence, he may be released on bail.

4. Learned APP and the learned counsel for the complainant would argue that a C.A. report reveals that the insecticide container contained Monocrotophos insecticide. That was poisonous. The Post Mortem Report supports the prosecution's case that the deceased died from a poisonous substance. A liquor bottle was also found on the spot of the incident. There are antecedents to the discredit of the applicant. Previously, he kidnapped the deceased. But, learned counsel appearing for the complainant could not reply whether the applicant was arrested for the so-called crime registered

against him. Besides this, they have the common argument that the offence is serious. There is a danger to the life of the witnesses. Hence, the application may be rejected.

5. The FIR, as discussed above, reveals that the present applicant and his relatives took the deceased to the hospital. So, there appears to be substance in the argument of the learned counsel for the applicant that if the applicant really intended to kill, they would not have taken the deceased to the hospital. Not taking action against the present applicant for kidnapping the deceased is also one of the circumstances supporting the applicant's contentions that those would not be a correct reports. It also appears from the FIR placed on record by the learned counsel for the complainant that they are making the same allegations of kidnapping but were not prompt in lodging the report. The complainant himself stated in the FIR that he went to the hospital along with the accused/ applicant and his relatives. However, till his mother returned, he did not complain against the applicant and his family members. The report was lodged five days after the incident. Such conduct of the complainant and his family raises serious doubt about the genuineness of their allegations. The police promptly made the inquiry under Section 174 of the Cr.PC.

During the inquiry, the relatives of the deceased told him that the deceased has consumed the liquor and a poisonous substance. Considering the facts of the case and the investigation made by the Investigating Officer, the delay in lodging the report, and the conduct of the complainant *Prima facie*, the applicant has a good case for bail. Hence, the application deserves to be allowed. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SANTOSH @ PINYA SAMSHER BHOSLE** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.59 of 2022, registered by Police Station Dindrud, District Beed, for the offences punishable under Sections 302, 328, 506 read with Section 34 of the IPC, on the condition not tamper with the prosecution witnesses.
- (iii) Criminal application No.3138 of 2022 to assist the learned APP is also allowed.

(S. G. MEHARE, J.)

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vmk/-