

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

BAIL APPLICATION NO.1741 OF 2022

**SANJAY RATAN MAGAR
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Ms. Sonawane Sunita G.
APP for Respondent/State : Ms. V.S. Choudhari
...

CORAM : S.G. MEHARE, J.

DATED : 10th NOVEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. Learned counsel for the applicant would submit that a false story has been concocted against the applicant since the deceased and applicant were friends. Both were liquor addicted. The deceased was a chronic alcoholic. The false eye witness has been created, who is the nephew of the deceased. The applicant never assaulted the deceased. The case set against the applicant is afterthought. There was 18 days of delay in lodging the report. The weapons have been recovered from the applicant. The prosecution has a case that the incident happened under the influence of liquor. Therefore, it cannot be said that it was a homicidal death. The applicant has been arrested on 19.08.2022. He never intervened the

investigation. He is a permanent resident of Village Shevgaon, District Ahmednagar. There are no antecedents to his discredit. Considering the spot of occurrence, it is highly improbable to witness the incident. The FIR also reveals that since the deceased was addicted to liquor, nobody was caring him. Due to chronic alcoholic, the liver might have been ruptured. Nothing is to be investigated from the applicant. The circumstances favour the applicant for bail. Hence, he may be released on bail.

3. Learned APP has strongly opposed the application. She would point out that the post-mortem report clearly indicates the rupture of liver and there were abrasions over occipital region and scratch marks over right elbow joint and near right ankle joint. She would also argue that there are eye witnesses to the incident. The offence is serious and hence, the applicant is not entitled to bail.

4. The FIR reveals that the deceased was chronic alcoholic. He was a regular drunkard. Hence, his family was also not taking him serious. The FIR further reveals that the deceased as well as the applicant were under the influence of liquor. This is a good circumstance in favour of the applicant to consider the intention and motive. One of the eye witness had changed the spot of incident. That apart, near the alleged spot of incident, there were other shops also, but the prosecution has no evidence of the persons from the said shops around the spot of incident. Whether really it was homicidal

death or intentional of assault by the applicant is a matter of appreciation of evidence before the trial Court. There are no antecedents to the discredit of the applicant. It seems that the quarrel took place under the influence of liquor. In view of the fact and the material collected by the investigation officer as discussed above, there appears a good case for bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Sanjay Ratan Magar be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one surety in the like amount in connection with Crime No.556/2022, registered at Shevgaon Police Station, District Ahmednagar for the offence punishable under Section 302 of the Indian Penal Code, on the condition that the applicant shall not tamper with the prosecution witness.
- (iii) The applicant shall attend the police station as and when called on written notice till filing of the charge sheet.
- (iv) Bail before the learned Judicial Magistrate First Class at Shevgaon, District Ahmednagar.

(S.G. MEHARE, J.)