

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

932 BAIL APPLICATION NO.1778 OF 2022

BALBHIM RAOSAHEB RATHOD
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Jadhav Satej S.
APP for Respondent-State : Mr. V. M. Kagne.

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CORAM : S. G. MEHARE, J.
DATE : 17.11.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. Learned counsel for the applicant would submit that only on suspicion of having extramarital relations with the wife of the deceased applicant has been arraigned as an accused in the present crime. The false evidence has been created against him that the mobile handset was discovered at his instance at 15 meter away from the alleged spot of the incident. It was also argued that two witnesses deposed that they saw the deceased lying by the side of the road. They told the parents of the deceased that their son was lying by the roadside. The parents stated that they saw the deceased lying. However, due delay in coming to the ambulance, he died. The applicant has

no concern with the death of the deceased. The deceased may have a dispute with his wife. The applicant and the deceased are residents of the same locality (*Tanda*). The applicant has cooperated with the investigation. The Post Mortem Report does not completely support the prosecution case. He may be released on bail.

3. Learned APP has strongly opposed the application. He would argue that the extramarital relation of the applicant with the wife of the deceased has not been denied. It was the sole cause to hatch a conspiracy with the wife of the deceased. The *saree piece* used for strangulation and the mobile handset was discovered at the instance of the applicant. The mobile handset of the deceased was recovered from beneath the stone. This is a strong circumstance against the applicant. The applicant was physically challenged by one hand. He has also referred to the Post Mortem Report and argued that they were signs of an attempt to throttle the deceased.

4. Perused the charge sheet. It appears that the applicant and the wife of the deceased had extramarital relations. It may cause to raise suspicion against the applicant. The incident happened on 18.02.2022. When the parents and brother of the deceased saw him lying under the tree in a field, he was unconscious. His body was hot. They called the ambulance.

This indicates that when the parents and the brother of the deceased saw him, he was not dead. The report was lodged on 22.02.2022, which is delayed. Immediately after the crime was registered, the applicant had been arrested. The possibility of concocting the story afterthought cannot be ruled out. The deceased had consumed a huge quantity of alcohol. The investigation has been completed. There are no antecedents to the discredit of the applicant. Appreciating the evidence, the prosecution there appears, no material against the applicant except suspicion. Hence, it would be inappropriate to keep him behind bars. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) **Applicant BALBHIM RAOSAHEB RATHOD** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.14 of 2022, registered by Police Station Gategaon, District Latur, for the offences punishable under Sections

302, 201 read with Section 34 of the IPC, on the following conditions :

- (a) He shall not contact any witness in any way till the conclusion of the trial.
- (b) He shall not tamper with the prosecution witnesses.
- (c) He shall attend the trial on every effective date.

(S. G. MEHARE, J.)

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vmk/-