

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1788 OF 2022

SHARAD S/O. MURLIDHAR SALVE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Rashmi S. Kulkarni
APP for Respondent : Mr. S. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 08-12-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant has been arraigned as an accused for the offence of murder.
3. The learned counsel for the applicant would submit that applicant has not been impleaded in the first information report. Primarily, one of the witnesses stated that the applicant was coming with the co-accused from the spot of the incident. However, subsequently the story has been changed. At the first instance, it has been alleged that there were eight persons, however, sixteen persons have been arraigned as an accused. The evidence with the prosecution about his presence is CCTV footage of the hotel where applicant was having dinner with other co-

accused, that too after the incident. The witnesses, alleging the role attributed to the applicant, are relatives. The applicant was identified in the test identification parade after supplementary statement. The weapon is allegedly recovered from him from one field close to the alleged spot of the incident. Surprisingly, another weapon from the another co-accused has also been seized from the same spot. This indicates falsity of the prosecution. Supplementary statements of the witnesses were recorded after two and half months after the incident. There is contradictory evidence as regards the identification of the applicant. Hence, he may be granted bail.

4. The learned A.P.P. for the respondent/State would submit that there are three crimes to his discredit. The applicant was seen with the co-accused sitting in the hotel. He withdrew money from the ATM, which was deposited by co-accused Vijay. The applicant was consistently in contact with co-accused Vijay. The vehicle in which the assailants came to the spot of the incident was also seen in the CCTV footage of the hotel where they had dinner. The weapon and cloths recovered from the applicant were blood stained. The deceased was murdered brutally. The offence is grave. Hence, he may not be granted bail.

5. Perusal of the record reveals that the applicant was not figured in the first information report. A witness came forward

stating against the applicant that he saw him coming from the spot of the incident belatedly. The witness had sufficient time to know about the applicant. Therefore, identification of the applicant may not be considered as a strong evidence against the applicant for the purpose of bail. That apart the description of the applicant was not given.

6. In view of the material collected against the applicant, the role allegedly attributed to the applicant appears suspicious. Hence, he may be granted bail. Thus, the following order :-

- i) Application is allowed.
- ii) Applicant – Sharad s/o. Murlidhar Salve be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.6 of 2020 registered with Kopergaon Taluka Police Station, District Ahmednagar, for the offence punishable under Sections 302, 452, 143, 148, 149 of the Indian Penal Code and Sections 4/25, 7/25 of the Arms Act, on the conditions that
 - (a) He shall not tamper with the prosecution witnesses;
 - (b) He shall attend the trial court on each and effective hearing.

**(S. G. MEHARE)
JUDGE**