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

BAIL APPLICATION NO.1796 OF 2022

IMRANKHAN S/O. HUSSAINKHAN
VERSUS
THE STATE OF MAHARASHTRA

Mr. S.R. Bagal, Advocate holding for Mr. B.N. Gadegaonkar, Advocate
for applicant;
Mr. K.S. Patil, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 13th December, 2022

PC.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The deceased made a statement before the police that a person known to him by face, doing the business of rags, came with a knife and without any reason stabbed him on back. Thereafter, one Mohd. Fahim and his son Mohd. Sufiyan took him to the Government Hospital. Next day the injured/first informant died. The prosecution has Mohd. Fahim as an eye-witness to the incident. The prosecution is relying on the post mortem report that shows around six injuries.
3. The learned A.P.P. would submit that the offence is serious. The eye-witness cannot be doubted at this juncture. Hence, bail may not be granted.

(2)

4. Per contra, the learned counsel for the applicant would submit that the presence of the so called eyewitness was doubtful on the spot of the incident much less he did not witness the incident. It is also argued that on the very same day the eyewitness had shown the spot of the incident but did not disclose the name of the applicant as an assailant. The police also did not record his statement on the very same day. As regards to the business of the applicant, the first informant/deceased and eyewitness contradicts. The applicant has been falsely implicated in the crime. He is languishing in jail since 13.03.2022. There are no antecedents to the discredit of the applicant.

5. Reading the first information report and the other material like spot panchnama and the statement of the witness, it raises a doubt about the presence of the eyewitness or at least witnessing the incident. The deceased was knowing the assailant by face. There are circumstances to believe, that the applicant's involvement is doubtful. The investigation has been completed. The trial would take its own time. There are no antecedents to the discredit of the applicant. Therefore, the applicant deserves bail on certain conditions. Hence, the following order:-

i) The application is allowed.

(3)

ii) Applicant Imrankhan S/o Hussainkhan 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.0044/2022 of 2022 registered with Itwara Police Station, Nanded, for the offence punishable under Section 302 of the Indian Penal Code and Section 4/25 of the Arms Act (Sessions Case No.149 of 2022 pending before Additional Sessions Judge, Nanded, District Nanded), on the condition not to tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

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