

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

20 BAIL APPLICATION NO.1499 OF 2021

Ramesh @ Daddya Vilas Shinde
Age: 25 years, Occu.: Agril.,
R/o.Goga, Wasti, Itkur,
Pardhi Pidhi, Tq.Kallam,
Dist.Osmanabad.

..Applicant

VERSUS

The State of Maharashtra
Through Police Station Kaij,
Dist.Beed.

..Respondent

...
Advocate for Applicant : Shri Sudarshan J. Salunke
APP for Respondent : Shri S.B.Narwade

...
CORAM : M.G.SEWLIKAR, J.

DATE: 14th February, 2022

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for enlargement of the applicant on bail in connection with Crime No.0463 of 2019, registered with Kaij Police Station, Dist.Beed, under Sections 302, 394, 34 of the Indian Penal Code.

2. Case of the prosecution in brief is that the father of the informant by the name of Ramling Madhav Thombare was a priest. He went to Vadmauli Temple for sleeping on 2nd

November, 2019 at about 08:00 p.m. On the next day at 07:00 a.m., said Ramling was found sleeping in injured condition. Blood was oozing from his ears and from his head. The said Ramling was found dead. The gate of the temple and the donation box were found broken. The amount in the donation box was missing. Accordingly, report was lodged in the Police Station against the applicant.

3. Heard Shri S.J.Salunke, learned counsel for the applicant and Shri S.B.Narwade, learned APP for the respondent-State.

4. Shri Salunke, learned counsel for the applicant submits that there is no evidence worth the name against the applicant. He submits that an axe has been recovered but not at the instance of the applicant but it has been recovered from co-accused. He further submits that except this evidence, there is no evidence to connect the applicant with the offence.

5. Shri Narwade, learned APP for the respondent-State submits that if the applicant is released on bail, he will not be available for trial. He further submits that there is record to show that applicant has facilitated escape of one accused. He, therefore, prayed for rejection of the application.

6. Charge-sheet is filed. On perusal of the charge-sheet, it appears that there is no evidence against the applicant to connect him with the offence. The only evidence on which trial Court rejected application of the applicant is that axe was recovered from the applicant. However, learned APP for the respondent and learned counsel for the applicant agreed that axe was not recovered from the applicant but it was recovered from other accused. Except this, there is no evidence to connect the applicant with the offence. There is no record to show that applicant had facilitated escape of other accused. Pendency of criminal cases has relevance, if there is *prima-facie* case for the offence in which accused is seeking bail. In the case at the hand, there is no *prima-facie* case against the applicant. Therefore, pendency of criminal cases has no relevance. In this view of the matter, I am inclined to release the applicant on bail. Hence, the order :-

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount, in connection with Crime No.0463 of 2019, registered with Kaij Police Station, Dist.Beed, under Sections 302, 394, 34 of the Indian Penal Code and on condition that

he shall not tamper the prosecution evidence and shall attend the dates fixed in the trial. The applicant shall furnish his permanent address to the concerned Police Station and shall also furnish his mobile number to the concerned Police Station. If his mobile number is changed, new number shall also be provided to the concerned Police Station.

iii) Bail Application is disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M.G.SEWLIKAR)
JUDGE

SPT