

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

901 BAIL APPLICATION NO.1252 OF 2019

MAHENDRA S/O. WAMAN NAGTILAK
VERSUS
THE STATE OF MAHARASHTRA

Mr S.B. Bhosale, Advocate for applicant
Mr S.G. Sangle, A.P.P. for respondent/State

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 24th March, 2022

PER COURT :

1. The applicant is seeking bail in connection with Crime No.0321/2018 registered with Osmanabad Rural Police Station, for the offences punishable under Sections 302, 506, 341, 201 read with Sec.34 of Indian Penal Code and under Section 4/25 of the Arms Act by taking aid of Section 439 of the Cr.P.C.

2. Ashwini Bhaskar Nagtilak (hereinafter referred to as 'first informant' for the sake of convenience) happened to be wife of Bhaskar Nagtilak (since deceased). She has lodged the F.I.R. with Osmanabad Rural Police Station on 7.11.2018 against the applicant and his accomplice for causing murder of her husband in the midnight. It is alleged in the F.I.R. that in the midnight of 7.11.2018, the applicant had been to her house when the first informant, her husband and son had slept. They heard the noise at midnight when applicant alleged to have made husband of the first informant to wake up and took him outside the house. The first informant was scared. She closed the door from inside. After some time, the applicant alleged to have broken the door and entered the house of the first informant and she was forcibly taken to nearby forest by putting her in fear by pointing sword. She was tied with one wire in the forest area. After some time, the applicant again came back to the forest area and after threatening the first informant, she was left free. It is stated in the F.I.R. that the applicant along with his accomplice/Somnath Nagtilak had committed murder of

her husband due to domestic reason in the midnight of 7.11.2018 by using sword and thrown away the dead body in the hilly area.

3. On the basis of F.I.R. lodged by the first informant, abovesaid crime came to be registered and the applicant came to be arrested in connection with abovesaid crime on the very day soon after lodging of F.I.R. The investigation in the matter is completed.

4. Mr S.B. Bhosale, learned Advocate for the applicant submitted that co-accused Somnath Nagtilak has been released on bail by the Sessions Court. The applicant is entitled to get bail on the ground of parity. He further submitted that there is no eye witness to the incident of murder of husband of the first informant. He invited my attention to the copy of F.I.R. and pointed out that the first informant had even not witnessed the incident of murder. There is no iota of evidence against the applicant. The applicant needs to be released on bail when the investigation is completed and charge-sheet is filed and co-accused Somnath has been released on bail.

5. Mr S.G. Sangle, learned A.P.P. for respondent/State strongly opposed to allow the Bail Application. He submitted that it is a case of brutal murder of husband of the first informant. The body of husband of the first informant was cut into four pieces and thrown them in different directions. The first informant was the witness who had seen the applicant armed with sword, which is alleged to have been used in causing murder of her husband. The Investigating Officer has recovered the weapons in the commission of offences. Initially, there was scuffle and fight between the deceased and applicant and in the said scuffle, the applicant had suffered injuries due to knife and thereafter, the applicant had attacked the deceased by using sword and killed him. Co-accused Somnath had given contract to kill the deceased. Accordingly, the plan was executed. He, therefore, urged to reject the application.

6. I have considered the submissions of Mr S.B. Bhosale, learned Advocate for applicant and Mr S.G.Sangle, learned A.P.P. for respondent/State. Perused the copy of F.I.R. and the copy of charge-sheet.

7. Let me first deal with the ground of parity. On perusing the copy of F.I.R., it is prima facie evident that the applicant alleged to have played main role in causing murder of the deceased. Whereas, the alleged role played by the co-accused Somnath is to the extent of hiring the applicant to eliminate the deceased. As such, the applicant cannot claim parity in view of major role played by him in commission of alleged offences.

8. Further, it is evident from the post mortem report and other papers that it was a homicidal death of the deceased in midnight of 7.11.2018. Even though the charge-sheet is filed, It is not a fit case to release the applicant on bail having regard to the prime role played by the applicant.

9. Having regard to the nature of accusation and the severity of punishment in case of conviction, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant and supporting evidence against the applicant, it is not just and proper to release the applicant on bail. It is a case of brutal murder of the husband of the first informant at midnight and applicant alleged to have played major role by using sword and alleged to have cut the body into four pieces and thrown away at different places. At the most, trial can be expedited. Hence, I proceed to pass the following order:

ORDER

(i) The Bail Application is hereby rejected.

(ii) The learned Additional Sessions Judge, Osmanabad is hereby requested to expedite the trial of Crime No.329/2018

and frame the charges against the applicant and co-accused at the earliest, if not framed and dispose of the sessions trial within a period of six months from framing of charges.

(iii) The observations made herein are confined to the adjudication of the present bail application. The Trial Court shall not get influenced by the observations made herein above, during the course of trial.

(iv) The Registry to communicate this order to the concerned Sessions Court accordingly.

(iv) The Bail Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)