

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

948 BAIL APPLICATION NO.2006 OF 2022

1. SHEKHAR BHAGWAN HEGAJE
2. AVINASH SINDHGOUD POWADE
3. ADITYA BALASAHEB CHAVAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Kedar Balbhim R.
APP for Respondent-State : Mr. A. A. Jagatkar.

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CORAM : S. G. MEHARE, J.
DATE : 20.12.2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent-State.

2. The applicants have been arraigned as accused for the offence of murder, conspiracy and kidnapping. The prosecution has a case that the deceased was a sugarcane harvesting labour supplier. The deceased had received a huge money from the main accused Nos.1 and 2. However, he could not return that amount. The balance of Rs.2,50,000/- was remained to be paid to them. Hence, on 27.02.2022 at about 10.00 to 10.30 p.m., they went to the house of deceased by a motorbike. The deceased welcome them and provided them food. He was convincing them that he had no money, but he would arrange.

The main accused told him that till he would pay money, they would stay there. Hence, they stayed there till 01.03.2022. It has been alleged that on that day, the deceased went to sleep with main accused. However, in midnight of 01.03.2022, the main accused and deceased did not find in the room. The complainant took the search of his deceased brother. He gave oral intimation to the police. On 06.03.2022, the dead body of deceased was found in the river bed at village Jaikochiwadi, Taluka Majalgaon. The prosecution has the allegations against the applicants that applicant No.1 is the brother-in-law of main accused Dada Belanke. He brought one Innova car on hire from Kolhapur. All the accused were in touch on cellphone. The prosecution has the evidence of CDR to show their presence in the nearby locality of river bed where the dead body was found. The prosecution has also the case that main accused Dada in his statement under Section 27 of the Indian Evidence Act stated the involvement of the present applicants. On these circumstances, the prosecution has arraigned them as accused.

3. Learned counsel for the applicants would submit that the circumstantial evidence against the applicants is too weak. Merely having a contact on phone is not sufficient to prove that

the applicants were involved in the crime. Statement of the co-accused under Section 27 disclosing the names of the co-accused is inadmissible. Rather it is also inadmissible for the purpose of Section 27 of the Indian Evidence Act. There is nothing to substantiate the allegations against the applicants. There are no antecedents to their discredit. They are languishing behind bars since 10.03.2022. The investigation has been completed. They are permanent residents of Taluka Kagwad, District Kolhapur. They may be granted bail.

4. Learned APP relying on the documents like the CDR supported with the statement of the owner of the vehicles would argue that *prima facie* material is available against the applicants. All the accused were in contact with one another at the relevant time. The statement of the owners and driver of the Innova vehicle complete the chain of circumstances. Offence is serious. Hence, bail may not be granted.

5. Considering the arguments advanced by both the learned counsel, it seems that the prosecution case rests upon the circumstantial evidence. The evidence against applicant No.1 is that he took the Innova car from its owner at his village. The another evidence is the CDR. Whether this evidence links the applicant beyond reasonable doubt is the matter of

evidence. The investigation against the applicant has been completed. There were no antecedents to their discredit. The trial may take its time. Hence, the applicants deserve bail.

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant Nos.1. **SHEKHAR BHAGWAN HEGAJE**, 2. **AVINASH SINDHGOUD POWADE**, 3. **ADITYA BALASAHEB CHAVAN** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each, in Crime No.48 of 2022, registered by Police Station Ashti, District Jalna, for the offences punishable under Sections 302, 201, 120-B, 363 read with Section 334 of the IPC, on the condition to attend the trial on each effective hearing, they shall not tamper the prosecution witnesses.

(S. G. MEHARE, J.)

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