

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

31 BAIL APPLICATION NO.1719 OF 2021

**DEVIDAS TATYARAO MISAL
VERSUS
THE STATE OF MAHARASHTRA**

Shri. C. C. Deshpande, Advocate for the applicant
Shri. S. B. Narwade, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 17th January, 2022**

PER COURT :-

1. Heard.

2. It is the case of the prosecution that deceased Santosh Rathod was the husband of the informant. Informant has two daughters aged 18 years and 15 years. On 1st September, 2021 at 8.30 p.m., informant and her son were present in the house. At about 9.00 p.m. accused Kadubai Misal came there alone and said that she had illicit relations with her husband Santosh Rathod. It is further stated in the FIR that accused Kadubai Misal said that husband of the informant had taken a contract of construction of house. She further said that she would get

the house constructed but would not pay any amount. Soon thereafter husband of Kadubai Misal by the name of Dhananjay Misal barged into the house. A little while later brother of Dhananjay Misal by the name of Ganesh Misal, Devidas Misal and their sisters came in the house. Accused Dhananjay Misal assaulted the deceased with kicks and fist blows when the informant tried to protect him, she was assaulted by the applicant and others.

3. It is further alleged in the FIR that on 2nd September, 2021 at 7.00 a.m. deceased Santosh Rathod said to the informant that she should go to the police station and lodge the report against the applicant and others in respect of the incident that happened on 1st September, 2021. He apprehended assault on him by the applicant and others. Therefore, he did not venture to step out of the house. After lodging FIR when she came back she found that the deceased Santosh Rathod had committed suicide by hanging. Accordingly, FIR came to be lodged on 2nd September, 2021. On the basis of this FIR offence under

Sections 306, 452, 143, 323, 504, 506 read with Section 34 of the Indian Penal Code vide Crime No. 0618 of 2021 came to be registered against the applicant and other accused.

4. Learned counsel Shri. Deshpande for the applicant submits that in the FIR the entire role is attributed to Dhananjay Misal. He submits that from the tenor of the FIR and the evidence collected during investigation, it does not appear that the applicant and other accused had the intention to bring about the suicide of the deceased. He further states that no role is attributed to the applicant except entering the house. Having regard to the role attributed to the applicant he seeks release of the applicant on bail.

5. Learned APP Shri. Narwade submits that there are injuries on the person of the deceased which are indicative of the fact that deceased was assaulted before he put an end to his life. He further submits that statement under Section 164 of the Code of Criminal Procedure, informant

has implicated the applicant and other accused as well to be the persons who assaulted the deceased. In this view of the matter, he seeks rejection of the application.

6. Charge-sheet is filed. No criminal antecedents are reported against the applicant. From the perusal of the FIR it is seen that applicant is alleged to have entered the house of the informant. However, no overt act is attributed to the applicant. The overt acts are attributed only to accused Dhananjay Misal. He launched an assault on the deceased Santosh Rathod. Having regard to the evidence collected by the prosecution and particularly when applicant has no criminal antecedents, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount in connection with CR No. 0618 of 2021 under Sections 306, 452, 143, 323,

504, 506 read with Section 34 of the Indian Penal Code registered with CIDCO Police Station, Aurangabad, on condition that he shall not tamper the prosecution evidence and shall not try to contact the informant in any manner whatsoever.

3. Application is disposed of.

4. 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, J.]

ssp