IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.2055 OF 2022

SUDHIR MAHADEV KHARPUDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Sachin S. Deshmukh and Mr. Ajit P. Rokade, Advocates for applicant;
Mr. A. A. Jagatkar, A.P.P. for respondents

CORAM : S. G. MEHARE, J.

DATE : 22nd December, 2022

P.C.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondents.

2. It has been alleged against the applicant that he and his father hit the deceased in the field of one Gorakh with wooden logs. They had the dispute over the field. The incident happened on 24.04.2022. As per the prosecution case, one Gorakh is the witness who saw the applicant and his father present near the deceased. The prosecution has also the evidence of extra judicial confession of the brother of the applicant. On these facts, the crime has been registered against the applicant.

3. Learned counsel for the applicant would argue that the alleged witness Gorakh is not a natural witness. He is a chance witness.

Normally, the agriculturists do not remain present in the field in the evening unless there are special reasons. That apart, the complainant did not immediately lodge the report. Immediately, after the alleged incident, he left the spot. The confessional statement is a weak piece of evidence. The weapons used in the crime have been recovered from the spot of the incident. There is no recovery from the applicant. The applicant is 28 years young. The chargesheet has been filed. Hence, he may be granted bail.

4. Per contra, the learned A.P.P. would submit that Gorakh is the prime witness, who saw the applicant and his father present near deceased. His statement is material to prove the link. Since his land is adjacent to the land of the applicant, his presence was probable. His presence on the spot of the incident is also possible for the reason that he had a garden land. There is strong material against the applicant. The offence is serious. Hence, he may not be granted bail.

5. The witness Gorakh did not state that he saw the applicant and his father were assaulting the deceased. However, he saw the applicant and his father present near the body of the deceased. He was asking the applicant to lift the deceased. After the incident, he phoned the other witnesses. However, in his unnatural conduct, he immediately left the spot of the incident. Be that as it may, the confessional statement is a weak piece of evidence. The weapons have

been recovered. The investigation has been completed. The applicant is a young boy having no antecedents to his discredit. The trial may take its time. Hence, he may be granted bail on certain conditions. Thus, the following order :-

i) Application is allowed.

ii) Applicant – Sudhir s/o. Mahadev Kharpude, 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.114 of 2022 registered with Police Station Paranda, District Osmanabad, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code (Sessions Case No.25 of 2022 before the learned Additional Sessions Judge, Bhoom), on the conditions that;

(a) The applicant shall not tamper with the prosecution witnesses.

(b) The applicant shall not enter his village for six months from the date of his release.

(S. G. MEHARE, J.)

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