

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 904 OF 2022

Tanaji alias Yogesh Narayan pawar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Ranjeet Pawar, for the Applicant.

Mrs. M. R. Tidke, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED : 13th July, 2022

ORDER:-

1. The applicant, who is arraigned in CR No.736 of 2021, registered with Indapur Police Station, District Pune, for offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code") along with 'J' a child in conflict with law and Ravi Kale, an absconding accused, has preferred this application to enlarge him on bail.

2. Raosaheb Kale, the first informant, is the father of Seema (the deceased). Prior to nine months, the marriage of the deceased was solemnized with 'J' a child in conflict with law. On 12th August, 2021, the deceased and 'J' had been to Bhatningaon, Taluka Indapur, District Pune, to participate in the marriage ceremony of brother-in-law of the deceased. In the

evening of 12th August, 2021, during pre-marriage ceremony, there was a quarrel between the deceased, on the one side, and 'J' and Tanaji, the maternal uncle of the deceased, on the other side. After the said function, the deceased and 'J' went to sleep in front of the house of Rashid Tarangphul Kale at Bhatningaon, Indapur. On 30th August, 2021, at about 2.30 am., 'J' called the first informant to inform him that the deceased suffered a snake bite. They went to Bhatningaon. It was found that the deceased was stabbed in the chest and thus died. Thereupon the first informant lodged report against 'J' and the applicant.

3. During the course of investigation, statements of witnesses came to be recorded. It transpired that Ravi Kale, the absconding accused, was also a privy to the crime. Post completion of investigation, charge-sheet has been lodged.

4. The applicant has preferred this application with the assertions that he has been falsely implicated. There is no material to connect the applicant with the crime. The prosecution case is improbabilised by the statements of the prosecution witnesses. Thus, the applicant deserves to be released on bail.

5. I have heard Mr. Pawar, the learned Counsel for the applicant, and Mrs. Tidke, the learned APP for the State, at some length. With the assistance of the learned Counsels, I have perused the report under Section 173 of the Code and the documents annexed with it.

6. To being with, it is necessary to note that the postmortem examination report indicates that there was a stab injury over the chest of the deceased. The autopsy surgeon opined that the death was caused due to hemorrhage shock on account of injury over heart. *Prima facie*, the deceased met a homicidal death.

7. The complicity of the applicant is sought to be established on the strength of the statements of Rashid Kale and the disclosure statement allegedly made by the applicant leading to the recovery of the knife. Rashid Kale stated that on the night intervening 12th and 13th August, 2021, before the couple went to bed, there was a quarrel over dancing in the pre-marriage ceremony, between the deceased, on the one side, and 'J' and the applicant, on the other side. At about 2.30 pm., 'J' raised alarm by claiming that the deceased had a snake bite. Since the witnesses noticed bleeding injury on the chest of the deceased, the pretence became obvious.

8. The crucial question that warrants consideration is whether there is *prima facie* material to connect the applicant with the said occurrence. The witnesses have consistently stated that deceased and 'J' went to sleep in the courtyard of the house of Rashid Kale. The witnesses, however, have not stated that applicant was also sleeping with the deceased and 'J', in the said courtyard. Nor the witnesses have stated that when 'J' raised false alarm of snake bite, they found the applicant thereat. Thus, *prima facie*, there is substance in the submission on behalf of the applicant there is no nexus between the applicant and the said occurrence.

9. The discovery sought to be pressed into service against the applicant also does not seem to advance the cause of the prosecution. The applicant had allegedly made a disclosure statement to show the knife by means of which he and 'J' stabbed the deceased. There was only one stab injury.

10. To add to this, co-accused Ravi Kale was sought to be implicated as an accomplice of 'J'.

11. In the aforesaid view of the matter, a *prima facie* case for exercise of discretion is made out.

12. Hence, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) The applicant – Tanaji alias Yogesh Narayan Pawar be released on bail, in CR No.736/2021, registered with Indapur Police Station, District Pune, on furnishing a P. R. Bond in the sum of Rs.30,000/-, with one or two sureties in the like amount to the satisfaction of the learned Sessions Judge.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.
- (iv) The applicant shall attend Indapur Police Station on the first Monday of every alternate month for the period of one year or till the framing of charge, whichever is earlier.
- (v) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined to the consideration of the entitlement for bail and they may not

be construed as an expression of opinion on the guilt or otherwise of the applicant and the co-accused.

(vii) All concerned to act on an authenticated copy of this order.

[N. J. JAMADAR, J.]