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

BAIL APPLICATION NO.164 OF 2023

**RAJABHAU RUSTUMRAO KHANDAGALE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicants : Mr. Khandagale Jeevan Vitthalrao & Mr.
Bhosle Pratik A

APP for Respondent/State : Mr. S.P. Sonpawale

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CORAM : S.G. MEHARE, J.

DATED : MARCH 29, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant was the driver of the vehicle allegedly used for committing the crime. The applicant has a case that he is a professional driver of the motor vehicle. The main accused has hired him to drive the cruiser vehicle bearing registration No. MH-22-H-3048 owned by one Narayan Uttamrao Ghene. No incident as such happened. He never had any intention to kill anybody. As per the prosecution case, the incident happened on 02.05.2021 and the report was lodged on 03.05.2021 making allegations that the deceased met with a vehicular accident and a truck bearing registration No. MH22-AN-8085 caused the accident. The applicant has been made a scapegoat in the case. He had no concern with the

dispute whatsoever between the deceased and the main accused on having illicit relations with the wife of the deceased. The applicant is languishing in jail since 03.08.2022. The charge sheet has also been filed. Hence, he may be released on bail.

3. Learned APP has an explanation that initially, the involvement of one truck bearing No. MH-22-AN-8085 was shown with a view to secure the motor vehicle accident claim. But subsequently it was transpired that the said cruiser vehicle was used to commit the murder of the deceased. The main accused had illicit relations with the wife of the deceased. Hence in conspiracy with all the co-accused, the deceased has been eliminated under the pretext of motor vehicular accident. The applicant was also the member of the conspiracy and was hired to execute the conspiracy. The offence is serious. Hence, he may not be granted bail.

4. Considering the material improvement in the prosecution case as regards the involvement of the vehicle, it appears that the complainant was not sure about the incident. There were two eye witnesses who initially did not state the involvement of the cruiser vehicle, allegedly driven by the applicant. As far as the extra marital relations of the wife of the deceased with the main accused is concerned, there is nothing on record to show that there was a dispute between the deceased and the main accused over the said issue. The overall material collected by the prosecution is not

satisfactory to believe the prosecution case that the applicant deliberately caused the accident with a view to kill the deceased. The main accused and the applicant had telephonic conversation, it may be about hiring him.

5. Considering the facts, the Court is of the view that this is a fit case for granting bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Rajebhau Rustumrao Khandagale, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.120 of 2021, registered with Selu Police Station, District Parbhani for the offence punishable under Section 302, 120-B, 201, 203, 427, 403, 465, 471 of the Indian Penal Code, on the conditions that he shall not tamper with the prosecution witnesses.
- (iii) The applicant shall attend the trial on each and every effective date.

(S.G. MEHARE, J.)