

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

BAIL APPLICATION NO.412 OF 2023

**RUSHIKESH S/O. DIGU @ DIGAMBAR BHOSALE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondent/State : Mr. K.S. Patil

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

DATED : MARCH 21, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant has been arraigned as an accused for the offence of murder of a driver. The incident happened on 10.07.2022. The applicant was arrested on 27.07.2022. The recovery panchnama at his instance was drawn on 31.07.2022. The prosecution has a case that on the day of his arrest, the applicant was wearing the blood stained clothes.
3. Learned counsel for the applicant doubted the investigation on the ground that no person would wear the blood stained clothes after committing a crime. Hence, the recovery of blood stained clothes is suspicious. The applicant has been arraigned as an accused only on suspicion. The witness stating that he saw the applicant in the company of the deceased also did not name the

applicant nor the test identification parade was held. In the circumstances, there is great possibility of creating a false evidence against the applicant by spraying the blood on the clothes of the applicant. Hence, the CA report though supports the prosecution, cannot be used against the applicant. He deserve bail.

4. Learned APP would argue that the offence is serious. The incriminating evidence has been collected against the applicant. One of the co-accused is still absconding. Hence, he does not deserve bail.

5. Perused the papers. There appears substance in the argument of the learned counsel for the applicant that no accused would make a mistake wearing the blood stained clothes after committing a crime. The common tendency of the accused is to hide the evidence. Be that as it may, in view of the facts and circumstances of the case, the evidence collected against the applicant has to be tested before the trial Court. The charge sheet has been filed. There were no antecedents to his discredit. Considering the facts cumulatively, the applicant deserve bail. Hence, the following order is passed :

ORDER

(i) Bail Application is allowed.

(3)

(ii) The applicant, Rushikesh s/o. Digu @ Digambar Bhosale, 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.284 of 2022, registered with Gangapur Police Station, District Aurangabad for the offence punishable under Section 302, 397 r/w 34 of the Indian Penal Code and Section 4/27 of Indian Arms Act, on the conditions that he shall not tamper with the prosecution witnesses.

(iii) The applicant shall attend the concerned police station as and when called on written notice, if required by the investigating officer.

(S.G. MEHARE, J.)