

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

946 BAIL APPLICATION NO.607 OF 2023

SUNNY @ CHALIS VASANT PATIL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Bhosle Abhaysinh K.
APP for Respondent-State : Mr. S. P. Deshmukh.
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CORAM : S. G. MEHARE, J.
DATE : 19.04.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant is seeking bail in Crime No.622 of 2019, registered at M.I.D.C. Police Station, District Jalgaon, for the offence punishable under Section 302 read with Section 34 of the IPC.
3. Learned counsel for the applicant would argue that the applicant had moved an application to this Court vide Bail Application No.207 of 2022. This Court, by its order dated 13.07.2022 had granted a liberty to the applicant to move a fresh application in case execution of sentence imposed upon the applicant for some other crime, is suspended.

Subsequently, the sentence of conviction was suspended by this Court on 21.12.2022. Hence, the applicant approached this Court.

4. Learned counsel for the applicant would submit that there were no eye witnesses to the incident. Immediately, on the next day of the incident, the applicant was arrested. That time, shirt wore by the applicant was recovered. However, till 09.03.2020, there were no witnesses stating that the applicant kill the deceased throwing the stone on his face. After about seven (7) months, the eye-witnesses came forward to support the prosecution case. Till then, there was no evidence against the applicant. These two witnesses, who came forward after seven months are planted witnesses. The reasons assigned for the delay appears not good. The applicant is languishing in jail since 26.08.2019. Considering the papers and the material collected against him, he may be granted bail.

5. Learned APP has opposed the application. He would argue that there were antecedents to the discredit of the applicant. The eye witnesses have explained the delay. Hence, the delayed statements of the eye witnesses cannot be discarded at this juncture. The offence and the punishment is severe. Hence, he may not be granted bail.

6. The papers placed on record shows that before the alleged incident, the deceased and co-accused had a quarrel in a wine bar. Thereafter, they went to their home. The report was lodged against the unknown person. For about seven months, there were no eye-witnesses to the incident. Surprisingly, on the very next day of the incident, the police arrested the accused. The record does not reveal the strong material to believe that the applicant was having a connection with the alleged incident. Be that as it may, delayed statements raises a suspicion. In the circumstances, the antecedents to the discredit of the applicant would not come into his way for bail. The investigation has been completed. The applicant is languishing in jail since 2019. Therefore, it would be inappropriate to keep him behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SUNNY @ CHALIS VASANT PATIL** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.622 of 2019, registered at M.I.D.C. Police

Station, District Jalgaon, for the offence punishable under Section 302 read with Section 34 of the IPC, on the following conditions :

- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) He shall attend the trial on each and every effective date.
- (c) If he would not attend the trial without reasonable cause and the trial is delayed due to his absence and non co-operation, the prosecution may approach for cancellation of bail before the Trial Court itself.

(S. G. MEHARE, J.)

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vmk/-