

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.777 OF 2023

SURESH @ SURYABHAN PIRAJI DEVKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Suraj R. Bagal holding for
Mr. Bharat N. Gadegaonkar
APP for Respondent : Mr. S. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 13-06-2023

PER COURT :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. The applicants are seeking bail in C.R.No.0186 of 2022 registered with Kinwat Police Station, District Nanded, for the offences punishable under Sections 302, 436 read with Section 34 of the Indian Penal Code.
3. It is a case of successive murder. Initially, the deceased in this case killed the relative of the applicants and then as per the allegations, the accused came there, caught the deceased, assaulted him with wooden log and stones.

4. The learned counsel for the applicants would submit that the so-called eyewitnesses were belatedly examined and the date on their statements was handwritten. Their statements are stereo type. Their statements were recorded after six days of the incident. Therefore, it raises a serious doubt, whether they were the eyewitnesses to the incident or not. There was a variance in the spot of the incident. The so-called eyewitnesses stated that the incident happened in front of the house of Madhukar Mukkawar and the relatives stated that the incident happened near the shop of Vishnu Jannawar. The applicants being the relative of each other have been falsely arraigned in the crime. The so-called weapons were allegedly recovered. The trial may take its time. There are no antecedents to their discredit. The incident happened on the spur of the moment soon after killing the relative of the applicants by the deceased. Hence, they may be granted bail.

5. The learned A.P.P. has strongly opposed the application. He would argue that there are eyewitnesses to the incident. The cloths of the applicants were stained with blood. The deceased was mercilessly killed. The applicants have created terror in the village. The witnesses may be won over. Hence, the applicants may not deserve bail.

6. Perused the papers.

7. The statements of the eyewitnesses have been recorded belatedly. They have given stereo type statements. There was difference in the spot of the incident in the statements of the eyewitnesses and the relatives of the deceased. Considering the case of the prosecution, it reveals that it was an incident which arose soon after the murder of the relative of the applicants by the deceased. It seems that the incident happened out of anger as the relative of applicant was killed by the deceased. The investigation has been completed. There are no antecedents to the discredit of the applicants. Applicant No.4 Mariba is a senior citizen, against whom there are no serious allegations. Applicant No.3 Mahadev and applicant No.2 Balaji are young. In view of the facts and circumstances of the case and completion of the investigation, it may be inappropriate to keep the applicants behind bar. They deserve bail on certain conditions. Hence, the order:-

- i) Bail application is allowed.
- ii) Applicants Nos. (1) Suresh @ Suryabhan s/o. Piraji Devkar, (2) Balaji s/o. Piraji Devkar, (3) Mahadev s/o. Bhima Devkar and (4) Mariba s/o. Massu Laskar, be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of the like amount, in C.R.No.0186 of 2022 registered with Kinwat Police Station, District Nanded, for the offences

punishable under Sections 302, 436 read with Section 34 of the Indian Penal Code, on the conditions that, on the conditions that,

- (a) They shall not enter the village Bodhadi, Taluka Kinwat, District Nanded for a period of six months from the date of their release.
- (b) They shall not contact any of the witnesses till the conclusion of the trial.
- (c) They shall attend the trial on each and every effective date.

(S. G. MEHARE)
JUDGE

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