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

BAIL APPLICATION NO.1079 OF 2023

**EKNATH S/O BANDU JADHAV
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. Sharma Govind M.
APP for Respondent/State : Mr. K.S. Patil
...

CORAM : S.G. MEHARE, J.

DATED : JULY 12, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.146 of 2022 registered with Manatha Police Station, District Nanded for the offence punishable under Section 302 of the Indian Penal Code.
3. The prosecution has a case that the applicant killed the deceased as he denied to marry his daughter with the applicant. On the day of the incident, the deceased slept watching TV and the TV was on. Thereafter, at about 11 to 11.30 pm, the first informant heard a sound and then saw one person going out of the house holding axe on his shoulder. She also found that her husband was killed. The report was lodged against unknown person. However, in her supplementary statement she raised a suspicion that the said

unknown person was the applicant. One witness came forward on the third day of the incident stating that he saw the accused in a street light going with axe on his shoulder. He also stated that after seeing the said person, due to noise he went to the house of the deceased and learnt to him that he had been killed.

4. Learned counsel for the applicant would submit that the applicant has been arraigned as an accused merely on suspicion. The accused and the deceased were close relatives. Therefore, the first informant would not make mistake in identifying the accused, if really he was the culprit. The sole witness who has seen the accused going with axe on the shoulder came forward belatedly. Then the accused was arrested. Therefore, the material against him is not strong and the chain of circumstances is not complete. Hence, he may be granted bail.

5. Learned APP would submit that the offence is serious. Since the deceased denied to marry his daughter to the applicant, he was annoyed and hence, he killed him. They being the relatives, the wife of the deceased who is first informant would not mistake in identifying the accused. The applicant was seen immediately after the incident going out of the house with an axe on his shoulder. The axe has been recovered at his instance. Therefore, the circumstances are sufficient to believe the prosecution case. Hence, he may not be granted bail.

6. Perused the papers. After hearing both the counsels at length, there appears substance in the arguments of the learned counsel for the applicant that identification of the accused is not supported with strong evidence. The recovery of the weapon is not a substantive evidence. Only on the suspicion, the applicant might have been arraigned as an accused. The investigation has been completed. No purpose would be served keeping the applicant behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Eknath Bandu Jadhav, 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 the above crime, on the conditions that he shall not tamper with the prosecution witnesses.
- (iii) The applicant shall attend the trial on each effective date.
- (iv) The applicant shall stay away from his Village Chabhara for three months from the date of his release.

(S.G. MEHARE, J.)