

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

929 BAIL APPLICATION NO.1404 OF 2023

SITARAM BHIMA KALE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. K.N. Shermale
APP for Respondents: Mr. S.P. Deshmukh.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 29th AUGUST, 2023

ORDER :-

1. The applicant seeks bail in connection Crime No. 25 of 2021 registered with Ghargaon Police Station, Taluka Sangamner, Dist. Ahmednagar for the offence punishable under Section 302 of the IPC.

2. The investigation had been set in motion on the report lodged by one Pundlik Maruti Salunke. It is alleged that the deceased and applicant had left the home together. The dead body of the deceased was found on the road. There were injuries on his person. The police were informed. On inquiry by police, the applicant disclosed that his father has suffered injuries due to the scuffle between them. The contents of the FIR shows that the applicant was suspected to be the culprit in commission of the murder of the deceased. After registration of the offence, investigation was carried further and charge sheet is filed. The applicant is behind bars from 17.7.2023. His prayer for grant of bail has been rejected by the learned Sessions Judge. Hence, this application.

3. Mr. Shermale, learned counsel for the applicant submits that

unfortunately, the applicant has been booked for alleged murder of his father. He would submit that the entire charge sheet is silent regarding motive behind the murder. He would further submit that the case of the prosecution is based on circumstantial evidence. There is no clinching material which will bring home the guilt of the applicant. He would further submit that the applicant is behind bars for more than two and half years. The trial will take its own course. Therefore, he urge for release of the applicant on bail.

4. Learned APP strongly opposes the prayers. He submits that there is evidence to indicate that the applicant was in the company of his father in the night before the death of the deceased. He would further point out that blood stained clothes have been seized from the applicant, which needs to be explained by him. Apart from that, it is alleged that the applicant has confessed regarding commission of offence to one Namdeo.

5. Having considered the submissions advanced, it is apparent that the applicant has been arraigned as accused based on suspicion. It is not in dispute that the applicant and his father were together in the night before death of the deceased. However, there is nothing to indicate that the applicant is author of the injuries found on the person of the deceased. The post-mortem report indicates that there is rib fracture and fracture of nasal bone. The contents of the stomach shows strong smell of alcohol. In such circumstances, the possibility that the deceased suffered injuries on account of accidental fall, as submitted on behalf of the applicant, cannot be ruled out. The last seen theory and blood stained clothes on the person of the applicant itself can not be construed as clinching evidence. Prima facie, the case of the prosecution falls short

to bring on record the clinching evidence to make out case of guilt against the accused. The applicant is behind bars for more than two and half years. The trial will take its own course. In that view of the matter, a case is made out for release of the applicant on bail, subject to certain conditions. Hence, the following order :-

O R D E R

[i] The application is allowed.

[ii] The applicant be released on bail in connection with crime No. 25 of 2021, registered at Police Station, Ghargaon, Taluka Sangamner, Dist. Ahmednagar for the offence punishable under Section 302 of IPC, on his furnishing P.R. Bond in the sum of Rs. 50,000/- (rupees fifty thousand only) with one solvent surety in the like amount.

[iii] The applicant shall not directly or indirectly or through any inducement, threat or promise, influence any person acquainted with the facts of the case and also not tamper with the evidence,

[iv] The applicant shall not leave the State of Maharashtra without written intimation to the Court.

[v] The applicant shall attend the police station as and when his presence is required and cooperate with the investigation.

[vi] The observations made in this order are prima-facie in nature and made only for the purpose of disposal of this application.

[vi] The application is accordingly disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-