

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

934 BAIL APPLICATION NO.1409 OF 2023

SURESH NARHARI LONDHE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Swapnil S. Rath
APP for Respondents: Mr. S.P. Deshmukh.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 5th SEPTEMBER, 2023

ORDER :-

The applicant seeks bail in connection with Crime No. 237 of 2022 registered with Mondha police station, District Parbhani, for the offence punishable under Sections 302 r/w. 34 of IPC.

2. One Vikas Lahane, who is brother of the deceased Vivek, had lodged a report with the police station, alleging that unknown persons have committed murder of his brother. Subsequently, supplementary statement was recorded after two days, wherein, a suspicion was raised against the son of the applicant that he might have caused the murder of the deceased. In pursuance of the registration of the FIR, and on the basis of the supplementary statement, further investigation was carried and the applicant and his son Vishal were arrested. Pertinently, Vishal - son of the applicant is released on bail by this Court. Looking to the summary of the charge sheet, prosecution case is that, both the accused persons have committed murder of deceased Vivek. During the course of investigation, the statement of the applicant under Section 27 of the

Evidence Act is recorded and consequently, recovery of the rope allegedly used in commission of crime is effected from him. This is the only evidence on which prosecution relies, except the statement raising suspicion against the applicant.

3. Mr. Rathi, learned advocate would submit that taking into consideration the allegations in the charge sheet, no incriminating material could be gathered against the applicant. Even there is nothing to indicate the motive for commission of offence. Recovery of rope is of no consequence since there is no further evidence to link the rope with the commission of murder. He would further submit that accused Vishal is already released on bail. As such even on the principle of parity, the applicant deserves to be released on bail.

4. Learned APP strongly opposes the application. He would submit that the recovery under Section 27 of the Evidence Act is the clinching material that would show the involvement of the applicant in the commission of murder. He would further distinguish the role of accused Vishal from the role of the applicant and therefore, submits that the principle of parity cannot be invoked in this case.

5. Having considered the submissions advanced, apparently, case of the prosecution is based on circumstantial evidence. The investigation was set in motion with allegations against unknown persons. In supplementary statement, on the basis of some previous incident, the animus is attributed against the accused persons including the applicant. During the course of investigation, except recovery of so called rope alleged to be used for strangulation of the deceased, no

incriminating material could be gathered. The recovery of rope is of no significance in the absence of link connecting its use in commission of murder. The entire material in charge sheet is bereft to reach certain conclusion to bring home the guilt against the applicant. The co-accused is already released on bail, who is also attributed the same role. In that view of the matter, even by applying the principle of parity, applicant deserves same treatment. Consequently, case is made out for grant of bail. It is made clear that observation made herein are only for the purpose of disposal of this application and shall not be construed as opinion of this court.

O R D E R

- (i) The application is allowed.
- (ii) Applicant – Suresh Narhari Londhe, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in aforementioned crime registered with aforementioned police station on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (c) He shall attend the trial on each and every effective date.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-