

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

BAIL APPLICATION NO.1452 OF 2023

MADHARAO KARBHARI JUNGLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Nilesh S. Ghanekar Nilesh S. For Applicant
APP for Respondents: Ms. P.V. Diggikar.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 11th SEPTEMBER, 2023

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 81 of 2023 registered with police station, Vaijapur, for the offence punishable under Sections 302, 363 read with 34 of IPC.
2. The investigation was set in motion on the basis of the information given by one Prabhakar Kale, who is father of the deceased. It is informed that since 25.2.2023, his son - Sachin was missing. On inquiry, it was revealed that on 24.2.2023 in the evening, his son handed over a mobile phone to Pushpa Jangle at her home situated at Bhivgaon Shivar. However, informant states that his son has been kidnapped by unknown persons. Investigation progressed in pursuance of the aforesaid crime.
3. During the course of investigation, statements of Pushpa Jangle and her sister Ashwini have been recorded. it is revealed that

Sachin had been to the house of Pushpa. In the night, he was chit-chatting with her. The applicant, who is the grandfather of Pushpa, noticed him in the room of Pushpa. Thereafter, applicant and other accused persons assaulted Sachin. It is alleged that Sachin died due to assault by applicant and co-accused.

4. Mr. Ghanekar, learned advocate for the applicant would submit that on perusal of the statements of two star witnesses i.e. Pushpa and Ashwini, it can be gathered that initially deceased Sachin was slapped by applicant and accused Sunil. Thereafter, deceased had ran away towards the field. The accused Sunil followed him and there was further assault on deceased. Thereafter dead body of the deceased was recovered in decomposed condition. Mr. Ghanekar would, therefore, submit that the applicant being 71 years of age, his initial participation in the crime is not sufficient to bring home the guilt under Section 302 of IPC.

5. The learned APP vehemently opposes the application. She would submit that only because of the love affair, the victim, who was a tender aged boy, lost his life. He was severely beaten by applicant and other accused. She would submit that the assault made on deceased Sachin is elaborated in the statement of eye witnesses. Therefore, she urges to reject the application.

6. Having considered the submissions advanced, apparently, the FIR is lodged by father of the deceased. The applicant is not named in the FIR. There was merely a complaint of kidnapping of the minor boy. During the course of investigation, statement of various persons are

recorded, who are simply giving version regarding love affair between deceased Sachin and Pushpa, the grand-daughter of the applicant. The learned APP has rightly pointed out that in the supplementary statement of the informant, there is specific allegation and role against the applicant. However, perusal of the statement of Pushpa shows that when the deceased was caught in the home by the accused, he was assaulted by fist and kick blows. Thereafter, he was taken out of the house and assault was made on him at courtyard but she has not seen the further incident. The statement of Ashwini shows that after Sachin was beaten by applicant and accused Sunil in the courtyard of the house using stick, he again ran away. He was followed by accused Sunil up to the field. However, she is not aware about the further incident.

7. Apparently, there was an incident. Deceased Sachin was beaten by applicant and another accused Sunil. After initial assault, deceased had run away from the house towards field. He was followed by accused Sunil. There is no clarity as regards to the further assault by Sunil on the deceased. But, what can be observed is that, there is discovery of weapons at the instance of accused Sunil. No such recovery is attributed against the applicant. The applicant is aged about 71 years. It is difficult to believe that applicant followed deceased after initial incident at home. Even the material on record does not indicate participation of the applicant in the further assault, after the deceased ran away from the house. Large number of injuries were noted on body of deceased. The cause of death is multiple injuries.

8. In that view of the matter, particularly, considering the age of the applicant, case is made out for grant of bail. Hence, the order :-

O R D E R

- (i) The Bail application is allowed.
- (ii) Applicant – Madhavrao s/o. Karbhari Jungle, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in connection with Crime No. 81 of 2023 registered with Police Station, Vaijapur, Dist. Aurangabad, for the offences punishable under Sections 302, 363 r/w. 34 of IPC on the following conditions :-
 - (a) 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,
 - (b) He shall not establish contact with any prosecution witness.
 - (c) He shall attend the trial on each and every effective date.
- (iii) Application stands disposed of accordingly.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-