

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

BAIL APPLICATION NO.1467 OF 2023

1. Dhananjay S/o Ramesh Rao Maandhale
Age: 30 years, Occu: Labour,
R/o Ashirvad Nagar, Near Durga Mata Mandir,
Parbhani, Tq. & Dist. Parbhani **... Applicant**

Versus

1. The State of Maharashtra
Through New Mondha Police Station
Parbhani, Tq. & Dist. Parbhani **... Respondent**

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Mr. D. M. Shinde, Advocate for the Applicant
Mrs. P. V. Diggikar, APP for the Respondent/State

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 06.09.2023

PER COURT :

1. Heard the learned Advocate appearing for the applicant and learned APP for the respondent/State.
2. The applicant is seeking regular bail in connection with Crime No.17/2023 registered with Nawa Mondha Police Station, District Parbhani for the offences punishable under Sections 302, 201 of the Indian Penal Code [for short 'IPC'].
3. On information given by one Amit Vaidya, FIR was registered. It appears that, initially, a missing complaint was registered stating

that deceased – Dilip Vaidya was missing from his home. The search was taken. During the search, the dead body of the deceased was found in a canal. Accordingly, offence under Section 302 of IPC was registered against the unknown accused persons. The investigation was proceeded. During the course of investigation, the applicant was arrested on 18/01/2023. On completion of investigation, charge-sheet is filed. A plea for bail raised before the Sessions Court by the applicant has been rejected. Hence, the present bail application.

4. Mr. Shinde, learned Advocate appearing for the applicant would submit that the case of the prosecution is based on circumstantial evidence. Initially, the missing report was lodged. The dead body of the deceased was found in a canal. The applicant is alleged to have given a confessional statement before the police and thereafter, a mobile phone of the deceased is alleged to have been discovered at the instance of applicant under Section 27 of the Evidence Act. He would submit that there is no admissible evidence that will bring home guilt against the applicant. The material relied by the prosecution is insufficient to complete the chain of circumstance that will lead to conclusion that the applicant is the culprit.
5. Learned APP vehemently opposes the application. She would submit that discovery of mobile phone is material incriminating circumstance as except the offender, nobody could have known whereabouts of the mobile. She would further submit that CDR in respect of mobile phone of the applicant was called, which

shows his location in the nearby area where the deceased was murdered. Hence, she urge to dismiss the application.

6. Having considered the submissions advanced, apparently, the case of the prosecution is based on circumstantial evidence. The prosecution relies upon two circumstances to bring home guilt against the applicant; (1) his alleged confessional statement given to the police and (2) his recovery panchnama dated 19/01/2023 showing discovery of the mobile phone at the instance of the applicant. So far as the confessional statement of the applicant is concerned, it would not be admissible in evidence since the same is given before the police. The discovery of the mobile phone at the instance of the accused is also doubtful considering the variation in the communication pertaining to the CDR report. Even otherwise, no clinching evidence is made part of charge-sheet, by which, the applicant can be held guilty for the commission of murder of the deceased. The applicant is behind the bars since 18/01/2023. Further detention of the applicant would not be necessary. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, namely, Dhananjay S/o Ramesh Rao Maandhale be released on bail in connection with Crime No.17/2023 registered with Nawa Mondha Police Station, District Parbhani for the offences punishable under Sections 302, 201 of the Indian Penal Code on furnishing P.B. and S.B. of

Rs.50,000/- (Rs. Fifty Thousand Only) on the following conditions:

a) The applicant shall not tamper with the prosecution evidence in any manner.

(iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer