

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

BAIL APPLICATION NO.1477 OF 2023

Piraji Ambadasrao Dhabadage

... Applicant

Versus

The State of Maharashtra

... Respondent

...

Mr. H. D. Deshmukh, Advocate for the Applicant

Mr. K. S. Patil, APP for the Respondent/State

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 31.08.2023

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 Crime No.120/2022 registered with Tadaklas Police Station, Taluka Purna, District Parbhani for the offence punishable under Sections 302, 201, 120 (B), 324, 504, 506 r/w 34 of the Indian Penal Code.
3. The investigation has been set in motion on the complaint given by Dashrath Manchakrao Kadam. In nutshell, it is alleged that, the deceased - Krushna Kadam was about to disclose the name of present accused and others to the police regarding commission of some offence. To prevent such disclosure and also to avoid some payment of amount due towards the

applicant, it is alleged that the accused persons conspired and killed the deceased. In pursuance of the said report, investigation was carried. During the investigation, applicant as well as two other accused persons, namely, Shankar Piraji Dhabadage and Laxman @ Raju were arrested. On completion of investigation, charge-sheet is filed. The applicant moved the Sessions Court for grant of bail. However, his prayer has been rejected. Hence, the present bail application.

4. Mr. Deshmukh, learned Advocate appearing for the applicant would submit that the investigation in the matter is complete. The perusal of charge-sheet would show that except suspicion against the applicant, there is no other evidence. He would further submit that the co-accused persons are already released on bail under the orders of this Court. This Court has categorically observed that the genesis of prosecution case itself is doubtful. He would further submit that looking to the injury suffered by the deceased, the possibility that he met with a motor vehicle accident cannot be ruled out. Further detention of the applicant would not be necessary.
5. Per contra, Mr. Patil, learned APP vehemently opposes the application. He would invite attention of this Court to Section 161 statement of one Soni Zade i.e. wife of Balaji Zade, wherein, she discloses that she heard the accused persons discussing that they would pretend the accidental death of the deceased and accused – Raju Pole and Piraji [present applicant] were discussing that Krushna is killed by them giving dash of vehicle. He would

submit that this particular statement is sufficient to indicate that the accused persons have committed murder of Krushna and created scenes of accidental death. He would further submit that the applicant is hardened criminal. Previously, he is involved in the similar offence i.e. Crime No.376/2019 registered with Police Station Hatta for the offences punishable under Section 302, 120-B r/w Section 34 of IPC. He was released on bail in that matter by order dated 16/09/2020 and during pendency of the said criminal cases, he has indulged himself in the second offence, which is grave and serious. Therefore, he urge that release of the applicant would hamper the smooth trial.

6. Having considered the submissions advanced, apparently, the FIR is lodged under suspicion that the applicant and others had animus against the deceased and possibility they have committed murder of the deceased. The perusal of the material in the charge-sheet would show that the reliance of prosecution is on the police statement of Soni Zade recorded on 25/07/2022, wherein, she refers to some talks amongst the accused persons, which is indicative of the fact that they have committed some-wrong with the deceased. However, such statement itself would not constitute the evidence to bring home charge of murder against the applicant. Pertinently, out of three accused, who were arrested, two have been enlarged on bail by order of this Court in Bail Application No.280/2023 and Bail Application No.428/2023, wherein, on evolution of evidence, this Court observed that the story of prosecution is prima facie unbelievable. There is reason to reiterate some observations

even while considering the present application. Although the applicant is facing similar charge in another case, in absence of clinching evidence in the present case, his detention cannot be continued. Hence, the case is made out for grant of bail subject to certain conditions. It is made clear that, the observations here-in-above are only for the purpose of disposal of present application and on prima facie consideration of the material in charge-sheet. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, namely, Piraji Ambadasrao Dhabadage be released on bail in connection with Crime No.120/2022 registered with Tadkalas Police Station, Taluka Purna, District Parbhani for the offence punishable under Sections 302, 201, 120 (B), 324, 504, 506 r/w 34 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.
 - b) The applicant shall not involve himself in any offence.
 - c) The applicant shall not leave the State of Maharashtra without permission the Sessions Court.
- (iii) Bail Application is disposed of accordingly.

**[S. G. CHAPALGAONKAR]
JUDGE**