

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

BAIL APPLICATION NO.1517 OF 2023

Kinesh @ Kanya S/o Sajan Pawra,
Age: 28 years, Occu.: Labour,
R/o. Saibupada, Nimya,
Tal. Raver & Dist. Jalgaon. ..Applicant

Versus

The State of Maharashtra,
At the instance of Raver Police Station,
Tal. Raver & Dist. Jalgaon. ..Respondent

...

Mr. Shaikh Nasimoddin Rafiyoddin, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondents-State.

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 31st AUGUST, 2023.

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking regular bail in Crime No.116/2023 registered with Raver Police Station, Dist. Jalgaon for the offence punishable under 302 and 201 of the Indian Penal Code.
3. The investigation was set in motion on the basis of the information given by Remsingh Rupsingh Pawra, who states that his son Sanjay was missing. He had not come to the field as usual. Therefore, he attempted phone calls, but his mobile phone

was switched of, then he took search for his son. Lastly, he came to know that the dead body of his son Sanjay is found. There were injuries on his person. Therefore, it was suspected that unknown culprit has caused murder of Sanjay by giving blow of stone on his head. The investigation was carried in pursuance of the aforesaid report. The applicant has been arrested on 09.04.2023 under suspicion. After completion of investigation, charge-sheet is filed. It is the case of prosecution that the accused had suspicion on character of his wife. The applicant killed Sanjay after making him drink liquor. The prayer for grant of bail of the applicant has been rejected by the Sessions Court vide order dated 09.08.2023.

4. Mr. Shaikh, learned Advocate appearing for the applicant would submit that the prosecution case is based on circumstantial evidence, however, the entire evidence in charge-sheet would fall short to complete the chain of circumstances that would lead to definite conclusion regarding guilt of the applicant. He submits that, although the allegation is made that the applicant was suspecting character of his wife and, therefore, committed murder of Sanjay, no evidence to indicate such illicit relationship or motive on the part of the applicant is made part of the charge-sheet. He would submit that the entire case of the prosecution is based on suspicion without supporting material. The applicant is ready and willing to abide by the conditions as imposed by this Court. Further detention of the applicant would not be necessary.

5. Per contra, learned APP strongly opposes the application. He would submit that there is recovery of blood stained clothes from the applicant. Further, there was mobile

conversation between the applicant and deceased prior to his death, that suggest that the applicant met with the deceased Sanjay. He would, therefore, submit that there is triable evidence against the applicant and release of the applicant may hamper smooth trial.

6. Having considered the submissions advanced, apparently case of the prosecution is based on circumstantial evidence. The prosecution story based on the alleged motive of illicit relationship of the deceased with the wife of the applicant. However, except supplementary statement of the informant raising such suspicion, there is nothing to support the alleged motive. Although, it is alleged that there is recovery of blood stained clothes, the Chemical Analysis report is not received. The alleged weapon of offence i.e. stone was recovered from spot. There is no evidence to show that the applicant was seen in the company of the deceased before his death. The mobile communication between the applicant and deceased is insufficient to establish any link between the death of the deceased and allegation against the applicant. The case of the prosecution is based on weak piece of evidence. *Prima facie*, perusal of the charge-sheet suggests that the case of the prosecution do not inspire confidence. The applicant is behind the bar since 09.04.2023. Further detention of the applicant would not serve any purpose. So far as apprehension raised on behalf of the prosecution that the applicant may tamper the evidence, certain conditions can be imposed. In that view of the matter, the case is made out for grant of bail. It is made clear that, observations made hereinabove are for *prima facie* consideration and only for disposal of this application. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Kinesh @ Kanya S/o Sajan Pawra be released on bail in Crime No.116/2023 registered with Raver Police Station, Dist. Jalgaon for the offence punishable under 302 and 201 of the Indian Penal Code on executing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
- a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend the proceedings before the Sessions Court.
 - c. The applicant shall not leave the State of Maharashtra without permission of the Sessions Court.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE