

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

938 BAIL APPLICATION NO.1519 OF 2023

SOMANATH DNYANESHWAR MHASARE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S.G. Bobde
APP for Respondent: Mr. S.B. Narwade

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: September 01, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.174 of 2023 registered with Gangapur police station, Tq. Gangapur, District Aurangabad for the offences punishable under section 302 of the Indian Penal Code.

2. Investigation was set in motion on the complaint of one Laxman Solat, who alleges that he has purchased a Tractor on Finance. However, repayment of installment was halted due to financial crises. The accused Somnath Mhasare had provided Rs.1,25,000/- as hand loan. The said amount was utilized for repayment of installment of Financer. It is further alleged that accused Somanath was pursuing for refund of the amount. However, the informant and his family members were assuring of the early repayment.

3. It is alleged that on 22.4.2023 the accused Somanath Mhasare had asked for the refund of the amount. It is further alleged that since evening 7.30 p.m. mother of the

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informant i.e. Alka Sheshrao Solat was not receiving mobile calls. All of them searched for her. However, she could not be located. On next morning, the maternal cousin of the informant found dead body of the deceased in the field. Blood was oozing from her nose and there was ligature mark of scarp around her neck. The investigation was set on motion. The applicant was arrested. On completion of the investigation, charge-sheet is filed. The applicant is behind bar from 24.4.2023. His application for grant of regular bail has been rejected by the Sessions Court vide order dated 4.8.2023. Hence, this application.

4. Mr. Bobade, learned advocate appearing for the applicant would submit that case of the prosecution is based on circumstantial evidence. FIR is lodged on the basis of suspicion only because the applicant was asking for refund of the amount. The applicant is falsely implicated. He would submit that no incriminating material could be gathered during the course of the investigation except suspicion raised against the applicant. Material in the charge-sheet is not indicative of the involvement of the applicant in commission of the murder as alleged. He would submit that spot panchnama, inquest panchnama refers that unknown person has caused murder of deceased Alka.

5. Per contra, learned APP would submit that the applicant was asking for refund of the amount. Statement of witnesses show that there was quarrel between the deceased and the applicant during the evening before her death. He

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would submit that a mobile instrument which was used by the deceased has been recovered at the instance of the applicant. Therefore, there is sufficient material to hold that the applicant is guilty of the murder.

6. Having considered the submissions advanced, apparently, F.I.R. is lodged on the basis of the suspicion. The applicant was arrested. It is alleged that mobile instrument which was in the possession of the deceased has been recovered at the instance of the applicant. However, it is difficult to find any nexus between such recovery and alleged murder. Statement of the witnesses may suggest that there was quarrel between the deceased and the applicant. However, those are based on hear-say information. None of the witness state that any such quarrel took place in his or her presence. Although, there is evidence of homicidal death of deceased Alka, it is difficult to hold that the applicant is author of her death on the basis of the material in the charge-sheet. Chain of the circumstances which begins with alleged motive do not take further to the definite conclusion pointing out guilt against the applicant. Investigation is completed. Charge-sheet is filed. The applicant is behind bar since 24.4.2023. In that view of the matter, further detention of the applicant would not be required. The interest of the prosecution can be secured by putting necessary conditions. It is made clear that the observations made here-in-above are only for the purpose of disposal of this application. Hence, following order.

ORDER

- I. Criminal Bail Application is hereby allowed.
- II. The applicant - SOMANATH DNYANESHWAR MHASARE be released on bail in connection with Crime No.174 of 2023 registered with Gangapur police station, Tq. Gangapur, District Aurangabad for the offences punishable under section 302 of the Indian Penal Code on furnishing PB & S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions :-
- a] The applicant shall not tamper with the prosecution evidence in any manner.
 - b] The applicant shall attend the Trial.
 - c] The applicant shall not leave the State of Maharashtra without permission of the Sessions Court.
- III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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