

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1573 OF 2023**

**TUSHAR SUNDARLAL MEHARA
VERSUS
THE STATE OF MAHARASHTRA**

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Mr. A. K. Bhosle, Advocate for the Applicant.

Mr. K. S. Patil, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 16th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.103/2023 registered with Cantonment Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 323, 504 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the complaint dated 15.03.2023 recorded by Kamal Raju More. She alleges that on 11.03.2023, she had been to the house of her sister namely Kanta @ Anita Kachru Dabhade. On 13.03.2023, Kanta told that applicant is acquainted with her and insist her to reside with him and tortures for that reason. It is further alleged that the applicant taken out the gold chain, which is not returned till date. It is further alleged that on 12.03.2023, the applicant/accused had been to Kanta's home asking for the money. On refusal by Kanta, the applicant had abused and assaulted her. It is further alleged that on 13.03.2023, the applicant had been to Kanta @ Anita and asked her to accompany him. Accordingly, she left the home with him and since then did not return. On 14.03.2023 at about 06.30 pm the police came with photographs of lady, located in unconscious condition, who is identified to be the

sister of the informant. In pursuance of the aforesaid report, Crime No.103/2023 has been registered with police station for the offence punishable under Section 302 of the Indian Penal Code. The applicant has been apprehended on 15.03.2023 from his home. The investigation progressed. After completion of investigation, charge-sheet has been filed.

3. Mr. Bhosle, learned Advocate appearing for the applicant would submit that the case of the prosecution is based on circumstantial evidence. The only circumstance relied upon by the prosecution is last seen together and recovery of scarf of the deceased at the instance of the applicant. He would submit that, although the circumstance may be incriminating, but the chain of circumstance is not complete. Based on such evidence, the applicant cannot be detained behind the bar.

4. The learned APP opposes the prayer for grant of bail. He would invite attention of this Court to the statement of the daughter and son of the deceased, wherein they disclose that lastly the deceased left house alongwith the applicant and there was some quarrel between them. He would further submit that the recovery of scarf from the applicant is one more circumstance that supports the case of the prosecution, since the cause of death is strangulation.

5. Having considered the submissions advanced, apparently the prosecution is bringing case of circumstantial evidence. Three witnesses state that the applicant was lastly seen in the company of the deceased on 13.03.2023. The witnesses further state that there was some quarrel between the applicant and the deceased before she left with him. The complaint regarding missing of the applicant was not lodged, though she was not found for more than 24 hours. Subsequently,

the applicant has been arrested and only incriminating circumstance regarding recovery of scarf is brought on record. Except family members of the deceased, no independent witness states that the deceased was seen in the company of the applicant. The learned APP submits that there were some injuries on the persons of the applicant at the time of the arrest. Perusal of the injury certificate shows that abrasions are attributable to the hard and blunt weapon. No inference can be drawn that there was any scuffle between deceased and the applicant and injuries found on the person of the applicant are relatable to such scuffle. *Prima facie*, the evidence on record is bereft to complete the chain of circumstances. The applicant is behind the bar for more than seven months. The trial is likely to take its own time. Further detention of the applicant would not be necessary. In that view of the matter, case is made out for grant of bail. Hence, following order:-

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Tushar S/o Sundarlal Mehara be released on bail in Crime No.103/2023 registered with Cantonment Police Station, Dist. Aurangabad for the offences punishable under Sections 302, 323, 504 of the Indian Penal Code on furnishing 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 not establish contact with any of the witnesses named in the charge-sheet.

c. The applicant shall not enter Aurangabad Municipal Corporation area for six months, except for attending trial.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/October-2023