

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

BAIL APPLICATION NO.1684 OF 2023

**BABLU @ MAHADEV UTTAM KALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants :Mr. Jadhavar Shivprasad G.
APP for Respondents: Mr. K.S. Patil.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 23rd OCTOBER, 2023

ORDER :-

1. The applicants seek regular bail in connection with Crime No. 93 of 2023 registered with Shiradhon Police Station, Dist. Osmanabad for the offences punishable under Sections 302, 364, 324, 323, 504, 506, 143, 147, 148, 149 of IPC.

2. The investigation was set in motion on a complaint/information given by Ashabai Mahadeo Kale, who states on 8.6.2023 while she was sitting on platform of her house alongwith her husband and other family members, accused Vikas, Suraj, Gangaram, Bablu, Bappa, Ravi Kale with 3 unknown persons arrived in a Scorpio Jeep. All of them alighted from the vehicle and rushed to caught hold the husband of the informant, who ran inside the house. The informant closed the door from inside, but accused persons barged into the room. They dragged the husband of informant out of the house and raised assault by stone on his head, chest and legs etc. Although others made

unsuccessful attempt to rescue him, accused persons continued attack with kicks and fists blows on him. Thereafter, the accused persons further dragged the husband of the informant to push him in the vehicle. The informant reported the incident to the police. The police swung into action. They found dead body of the husband of the informant near Mangrul Pati Bus Stop road. Accordingly, FIR was registered against in all six named persons and 3 un-named persons.

3. Investigation progressed in the matter. During course of investigation, the applicants have been arrested on 18th August, 2023 being suspects in the crime. On completion of investigation, charge sheet has been filed with the Judicial Magistrate First Class at Kallamb. The applicants moved application for grant of bail before the Sessions Court. However, their prayer is rejected vide order dated 12th September 2023, Hence, this application.

4. Mr. Jadhavar, learned advocate for the applicant would submit that the applicants are not named in the FIR. They have been arrested during the course of investigation on suspicion. He would invite attention of this court to the contents of the FIR as well as statement of eye witness Sardar Chavan, who states that he can recognize the unnamed persons, if they are brought before him. He would point that in supplementary statement recorded on 18.6.2023, Sardar introduced names of the applicants. He would therefore submit that the applicants have been falsely implicated.

5. Learned APP, however, opposes the prayer for grant of bail. He would submit that the offence is serious. Brutal attack was raised by

the accused persons resulting into death of the victim. Although the applicants were not identified by the first informant, they are identified by eye witness Sardar. Similarly, first informant also recorded her supplementary statement naming the applicants.

6. Having considered the submissions advanced, apparently, FIR has been lodged on the complaint given by wife of the victim. It was recorded on 9.6.2023 whereas the incident took place on 8.6.2023. The first informant has named six persons, who had alighted from the Scorpio Jeep. She refers to presence of 3 unknown persons in the company of the named accuse. However, no particulars required for identification of such persons are elaborated in the FIR. Pertinently, name of the applicants have been introduced in the supplementary statement of the informant as well as another eye witness i.e. Sardar, whose earlier statement was recorded on 12.6.2023. Both of them state in supplementary statement that they are acquainted with all accused persons including the applicants. However, explain that, they could not remember the names of all assailants.

Apparently, it is an after thought narration, by which applicants are implicated as an accused. There is no other evidence by which the applicants could be linked with the offence in question. Even on perusal of supplementary statements, no specific role has been attributed against the applicants. The allegations are omnibus in nature. The applicants are behind bars from 18th August, 2023. The investigation is complete. Charge sheet is filed. Learned APP confirmed that there are no criminal antecedents to discredit the applicants. Hence, a case is made out for grant of bail. Hence the order :-

ORDER

- [i] The application is allowed.
- [ii] The applicants (1) Bablu @ Mahadev S/o. Uttam Kale and (2) Badal S/o. Uttam Kale be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) each, with one solvent surety of the like amount, each, in connection with Crime No. 93 of 2023 registered with Shiradhon Police Station, Dist. Osmanabad for the offences punishable under Sections 302, 364, 324, 323, 504, 506, 143, 147, 148, 149 of IPC, on the following conditions :-
- [a] The applicants shall not tamper with the prosecution evidence.
 - [b] They shall not enter the village Mal-Karanja, Taluka Kallamb, Dist. Osmanabad.
 - [c] They shall attend each and every effective date before the trial court.
 - [d] They shall not indulge in similar offences.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-