

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 BAIL APPLICATION NO.1721 OF 2023

VISHNU @ VISHWAS NARAYANRAO MORE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Santosh C. Bhosle
APP for Respondent – State : Mr. S. B. Narwade
...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 13.10.2023

PER COURT :-

1. The applicant seeks regular bail in Crime No. 160 of 2023 dated 06.05.2023 registered at Bhokar Police Station, District Nanded for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by Dinanath Dashrath Sakirge, who is the brother of victim Madhav alias Pappu. It is stated in the report that the deceased Madhav was residing alone at village Ritha and he was doing the Meson work. On 06.05.2023, the informant who was at his work place at Karnapalli at Nizamabad, received the information that his brother Madhav is found dead at his home and unknown person has committed his murder. Based on the aforesaid information, the Crime No. 160 of 2023 came to be registered against unknown culprit.

3. The supplementary statement of the informant came to be recorded on 09.05.2023, in which, he states that on 08.05.2023, while he had been to police station, the accused Amol Laxman Bonthale and Vishwas Narayan More gave the information to the police that on 05.05.2023, at about 11.30 to 12.30 p.m., they had consumed liquor along with the deceased Madhav alias Pappu. During the said meeting, there was some quarrel amongst them. Thereafter, they killed him by throatling and cutting blood vessel of right hand.

4. In view of the aforesaid statement, the applicant has been arrested. He is behind the bar since 08.05.2023. The investigation completed and charge-sheet is filed. The applicant moved Sessions Court for grant of bail, however, his application came to be rejected vide order dated 28.08.2023. Hence, present application.

5. Mr. Bhosle, learned Advocate appearing for the applicant would submit that applicant has been falsely implicated in the offence. The investigation is completed. There is no incriminating material against the applicant, by which, any role in commission of murder can be attributed against him. He would submit that the evidence on record is inadmissible and inconclusive. The applicant is behind the bar for more than five months. His further detention is not required. Hence he urges to release the applicant on bail.

6. Learned APP strongly opposes prayer of the applicant. He invites attention of this Court to the discovery panchanama under Section 27 of the Evidence Act, which shows that a shirt with blood-stains has been recovered at the instance of the applicant. Further, the statements of the witnesses Rupesh Gadhe and Satva Karandekar are relied to show that the deceased was lastly seen in the company of the accused persons.

7. The learned APP also points out that there is recovery from the co-accused. According to the learned APP, the evidence on record is sufficient to show involvement of the applicant in commission of offence.

8. Having considered the submissions advanced, it is apparent that, the F.I.R. has been registered against unknown accused persons. No suspicion was raised against anyone. The supplementary statement of the informant is recorded on 09.05.2023, wherein, the reference is given to the alleged confession made by the accused persons before the police. Such statement would be inadmissible in evidence. Although there is evidence to indicate that the applicant along with co-accused was seen in company of the deceased in the night before his death, there is no further evidence to show the complicity of applicant in commission of offence. When case is based

on circumstantial evidence, the circumstances must complete the chain that will clinchingly pinpoint guilt against the accused. However, the evidence posed against the applicant is bereft to complete the chain. The applicant is behind the bar since 08.05.2023. The investigation is completed. The charge-sheet is filed. Based on available evidence, the further detention of the applicant need not be continued. Hence, case is made out for grant of bail. Hence order :

ORDER

- (i) The Bail application is allowed.
- (ii) Applicant –Vishnu @ Vishwas Narayanrao More, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (Rs. Fifty Thousand only) in connection with Crime No. 160 of 2023 dated 06.05.2023 registered at Bhokar Police Station, District Nanded for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, on the following conditions :-
 - (a) The applicant shall not tamper with the prosecution evidence in any manner.
 - (b) The applicant shall attend the trial on each and every effective date before the trial Court.
 - (c) The applicant shall not establish the contact with any witness named in the charge-sheet.
- (iii) Application stands disposed off accordingly.

(S. G. CHAPALGAONKAR)
JUDGE

shp/-