

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1729 OF 2023**

SWAMI PRAKASH GOSAVI
VERSUS
THE STATE OF MAHARASHTRA

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Mrs. Suvarna M. Zaware, Advocate for the Applicant.
Mrs. P. V. Diggikar, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 25th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.445/2023 registered with Loni Police Station, District Ahmednagar for the offences punishable under Sections 302, 364, 364-A, 384 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the complaint given by Mr. Nilesh Muktaji Dhadwad, who is posted at Loni Police Station. It is stated that on 30.07.2023 the information was received that a dead body of unknown person is laying in the field of Somnath Bhausaheb Magar. The police party rushed to the spot and found the dead body of the person aged about 45 to 55 years having marks of the injuries on his body. Subsequently, the statement of wife of the victim is recorded, wherein she alleges that there was dispute between the victim and accused persons as regards to the landed property/plot. The wife of the victim states that the applicant is seen in the company of main accused Manoj while threatening the victim. The applicant has been arrested on 31.07.2023 on the basis of suspicion. Since then, he is behind the bar.

3. The learned Advocate appearing for the applicant submits that the applicant is innocent person and has been falsely

implicated in the aforesaid crime. He is unconcerned with the victim or the property in question. Hence, she urges to release the applicant on bail.

4. The learned APP, however strongly opposes the application. She would point out that the victim was last seen in the company of the applicant and co-accused when they traveled in car. Even, the applicant was seen parking the vehicle of the victim at a particular place. The said vehicle is recovered under memorandum of panchanama as per Section 27 of the Evidence Act. She would, therefore, urge that *prima facie* there is evidence to implicate the applicant.

5. Perusal of the investigation papers shows that initially the statements of two witnesses have been recorded who have seen the applicant parking the vehicle of the victim and then boarding in a car alongwith him. However, except this particular evidence, there is nothing by which complicity of the applicant in commission of the offence can be brought on record. When the case is based on circumstantial evidence, it is expected that impeccable evidence is to be brought on record that will pin point the guilt of the accused. Although, charge-sheet is not filed, the investigation in the matter is practically over. On the basis of the material collected during the investigation, it is difficult to permit further detention of the applicant. Hence, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Swami Prakash Gosavi be released on bail in Crime No.445/2023 registered with Loni Police Station, District Ahmednagar for the offences punishable under Sections 302, 364,

364-A, 384 r/w 34 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 attend the concerned Police Station once in a week i.e. on every Friday between 10.00 am to 02.00 pm.
- c. The applicant shall co-operate with the investigation.
- d. On filing of the charge-sheet, the applicant shall attend each and every effective hearing date during the course of the trial.
- e. The applicant shall not indulge himself in any other criminal activity.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE