

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

BAIL APPLICATION NO. 1774 OF 2023

Rahul Machindra Aghade

...Applicant

VERSUS

The State of Maharashtra

...Respondent

.....

Mr. S.G. Bobde, Advocate for the applicant.

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

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 27th OCTOBER, 2023

PER COURT:

1. The applicant seeks regular bail in connection with Crime No.144 of 2023 registered with Gangapur police station, District- Aurangabad for the offences punishable under sections 302, 201, 376(2)(n), 394, 506, 506 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the statement of victim. In nutshell, she alleges that on 1.4.2023 accused arrived at her residential house. They hurled abuses to husband of the informant. Thereafter, they dragged him towards the well. It is alleged that the accused Rahul Aghade (present applicant) and Anil Shirsath had sticks in their hand. Accused Raybhan assaulted her husband by iron rod (pahar). The accused Rahul and Anil assaulted him by sticks. It is further alleged that accused persons pushed him in

the well. Thereafter, on persuasion of the informant, they pulled him out of the well. She had arranged a vehicle to carry the injured husband to the hospital. However, by the time vehicle arrived, her husband had lost his life. It is further alleged that because of the threats given by accused Raybhan, neither the incident was disclosed nor was reported to police by anyone. Last rites were performed on the body of the deceased. She alleges that after arrival of relatives, she is filing the complaint regarding the incident.

3. On the basis of information received, FIR has been registered against the accused persons for the aforesaid offences. Investigation progressed. Accused persons are arrested on 5.4.2023. Plea for grant of bail by the present applicant before the Sessions Court has been rejected vide order dated 08.09.2023. Hence, the present application.

4. Mr. S.G. Bobde, the learned advocate for the applicant would submit that the role attributed to the applicant is very similar to accused Anil Shirsath who is already enlarged on bail by this Court in Bail Application No. 1525/2023. He would therefore submit that by invoking principle of parity, the applicant was also be entitled for grant of bail.

5. The learned APP concedes to the position that the allegation against the present applicant are similar to that of accused Anil Shirsath.

6. Perusal of FIR and the material in the charge sheet clearly show that the major role in commission of offence is

alleged against Accused No. 1- Raybhan Thorat. This Court has considered the evidence available in the charge sheet in detail while dealing with the Bail Application No. 1525/2023 filed by accused Anil Shirsath. Accordingly, following observations are made in para 7.

“it can be gathered that alleged incident of assault on the deceased and consequential death took place on 1.4.2023 however it is reported to the police on 5.4.2023. Delay in lodging the FIR is not explained. Even, immediately after alleged assault on injured, vehicle was available for transportation. Witness Vitthalsingh Pardeshi confirms that he had reached his vehicle to transport the injured to the hospital. However, his statement suggests that husband of informant had already lost his life. Further, said witness states that he was informed that deceased sustained injuries because of fall on the steps and died. Perusal of the narration given in the FIR suggests that accused persons had pushed the victim in the well. However, statements of daughters of the informant restrict such allegation against accused Raybhan. Since, there is no postmortem report, cause of death is not known. There is nothing on record to corroborate the allegations regarding assault to the deceased. Even, taking the allegations as it is against the applicant, his role is limited. The statement of the other witnesses recorded under section 161 of the Cr.P.C. shows that they were informed by informant that victim suffered injuries because of fall on steps. Upon

overall consideration of the material on record
genesis of the prosecution story is shaken.”

7. In the light of aforesaid facts, the applicant is also entitled for bail on the principle of parity. Hence, the order.

O R D E R

- i. Criminal Bail Application is hereby allowed.
- ii. The applicant - Rahul Machindra Aghade be released on bail in connection with Crime No.144 of 2023 dated 5.4.2023 registered with Gangapur police station, District Aurangabad for the offences punishable under sections 302, 201, 376(2)(n), 394, 506, r/w 34 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
 - c] The applicant shall stay away from the village Sirasgaon for a period of six months from the date of this order.
- iii. Bail application is accordingly disposed off.

[S. G. CHAPALGAONKAR, J.]