

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

BAIL APPLICATION NO. 1792 OF 2023.

Kishor Bandu Chavan

.. Applicant

VERSUS

The State of Maharashtra

.. Respondent

Mr. S.J. Salunke, Advocate for the applicant

Mr. S.B. Narwade, APP for State.

With

BAIL APPLICATION NO. 1777 OF 2023

Umesh S/o. Kalyan Shingne

..Applicant

VERSUS

The State of Maharashtra

.. Respondent

Mr. Sachin S. Deshmukh, Advocate for the applicant

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

With

BAIL APPLICATION NO. 1762 OF 2023

Nitin Balu Markad

.. Applicant

VERSUS

The State of Maharashtra

.. Respondent

Mr. Y.K. Bobade, Advocate for the applicant

Mr. S.B. Narwade, APP for State.

{2}

BA 1777, 1762 & 1792.23.odt

CORAM : S.G. CHAPALGAONKAR, J.
RESERVED ON : 18th October, 2023
RRONOUNCED ON: 25th October, 2023.

ORDER :-

The applicants seek bail in connection with Crime No. 87 of 2023 registered with Police Station, Talwada, Taluka Georai, Dist. Beed for the offences punishable under Sections 302, 201, 143, 147, 148, 149 and 120-B of IPC.

2. The investigation was set in motion on the basis of information given by Dnyaneshwar Bhanudas Rathod, who is uncle of the deceased Rameshwar Rathod. It is alleged that on 6.4.2023 at about 6.00 p.m., he received a message from one Ganesh Chavan that Rameshwar Rathod has pains in the stomach and hence, he is required to be taken to civil hospital at Georai. Thereafter, the informant and his brothers had been to civil hospital where, it was noticed that Rameshwar had suffered injuries on account of assault by belt, sticks, wires, rods etc. and there were marks of such injuries on his person. He further alleged that his wife, namely, Saraswati told him that on 5.4.2023 at about 9.30 p.m. Sachin Lahu Chavan made a telephonic call and in response to the same, Rameshwar had left the home. It is further alleged that accused Sachin Chavan, Prakash Rathod, Sham Shinde and Shahaji @ Pappu Tailure assaulted him for the reason of stalking a girl.

The investigation progressed. The applicants have been arrested in pursuance of the aforesaid crime. On completion of investigation charge sheet has been filed.

3. Learned advocates appearing for the applicants would submit that the applicants are not named in the FIR. However, during the course of investigation, they have been implicated as accused, on the basis of omnibus allegations regarding their role in assault on the deceased. They would invite attention of this Court to the post-mortem report which attributes cause of death to the multiple injuries. It is also argued that there was no injury on the vital part of the body. Even deadly weapons are not used which would suggest that there was no intention to kill.

4. Learned APP strongly opposes the prayer for grant of bail. He would submit that the deceased was mercilessly beaten. 7 external injuries were seen on the body. Although individually the injuries are simple in nature but cumulatively those injuries proved to be fatal. The applicants are named by the eye witnesses as assailants. The statements under sections 161 as well as 164 are consistent regarding involvement of the accused persons. As such, he opposes the prayer for grant of bail.

5. Having considered the submissions advanced, apparently, the applicants are not named in the FIR. No specific motive is attributed against the applicants so as to commit murder of the deceased. It appears that the deceased had some obscene material in his mobile phone as regards the daughter of Sachin Chavan. The deceased was called at Trimurti Hotel owned by Pappu Tailure. The accused persons alleged to have assaulted him by fists, kicks, belts and wires. Due to such injuries, he lost his life. So far as the attributions against the applicants are concerned, applicant Kishor Chavan and Umesh Shingne are alleged to have assaulted the deceased by fists and kicks, whereas, accused Nitin

Markad is alleged to have assaulted the deceased by belt. Perusal of the statements of the witnesses recorded under Section 161 of Cr.P.C. shows that omnibus allegations are made against the applicants. The witness Ramesh Mhatre, who was working as a Manager at Trimurti Hotel, stated that the deceased was assaulted on account of stalking the daughter of Sachin Lahu Chavan. He states about the presence of the applicants and their participation in assault with other accused persons. Similarly, statement of Prakash Rohidas Rathod, who is named as an accused shows that, all the accused persons assaulted the deceased. All nine accused persons are alleged to have assaulted him by belt or fists and kicks.

6. The statement of Prakash Rathod is further recorded under Section 164 of Cr.P.C., wherein, he alleges that waiters in the hotel assaulted Rameshwar by fists and kicks and they left the place. Thereafter, accused Ali Vastad assaulted the deceased and also tortured him by various means. There are no specific attributions against applicants in the statement of Prakash Rathod recorded under Section 164 of Cr.P.C. Therefore, the material placed on record appears to be omnibus in nature. Further, looking to the nature of injuries suffered by the deceased it can be observed that all the injuries were simple in nature but the deceased lost his life because of the cumulative effect.

7. It appears that there was assault in a phased manner. The applicants are unconcerned with the cause of initiation of the incident. The investigation in the matter is complete. Charge sheet is filed. The applicants are behind bars for almost six months. Trial would take its own course. Further detention of the applicants would not be necessary. Hence, a case is made out for grant of bail. Hence, the following order :-

6. : O R D E R :

[i] The application is allowed.

[ii] The applicants (1) Kishor S/o. Bandu Chavan (2) Umesh S/o. Kalyan Shingne and (3) Nitin S/o. Balu Markad be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- each, with one solvent surety of the like amount each, in connection with crime No. 87 of 2023, registered with Police Station, Talwada, Taluka Georai, Dist. Beed for the offences punishable under Sections 302, 201, 143, 147, 148, 149 and 120-B of IPC on the following conditions :-

[a] The applicants shall not tamper with the prosecution witnesses.

[b] The applicants shall attend the trial on each and every effective date.

[c] The applicant shall not indulge in similar offence.

[d] The applications are accordingly disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-