

(1)

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

**BAIL APPLICATION NO.1976 OF 2022
WITH APPLN/74/2023 IN BA/1976/2022**

**MAHADEV KANHOBHA POTE
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Salunke Sudarshan J
APP for Respondent/State : Mr. K.S. Patil
Advocate for Complainant : Mr. V.H. Solanke

...

CORAM : S.G. MEHARE, J.

DATED : JANUARY 11, 2023

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. This is a case wherein it has been alleged that the applicant was engaged to get the land of the deceased free from other person and for freeing the land, initially the applicant was demanding half acre of land. However suddenly, the case took a turn and it is alleged that the applicant started demanding the entire 8 acre of land out of 11 acre. The father of the first informant had a contract to sell the entire land with one Rajesaheb Sanglikar, but he was not willing to sale him the entire land; however, he sold him only 3 acre of land. Nowhere it is clear why the applicant was engaged to cancel the sale transaction of 8 acres of land and who was in possession of the land.

3. The applicant was accused in murder case of brother of the complainant. He has been acquitted on 28.10.2021. Thereafter, the incident happened on 08.12.2021.

4. The first informant lodged the report alleging that one unknown person came to his home and told that the applicant assaulted his father. Hence, he went on the spot and found that his father was lying on the road and blood was oozing from his head, then he took him to the hospital. He was declared dead there. The prosecution thereafter recorded the statement of two grandsons and two daughters of the deceased and posed them as eye witnesses. However, their conduct appears unnatural. They did state nothing immediately. They also did not try to save the deceased, or bring him to home. They also did not give a call for help. They being the relatives, their statements have been seriously doubted by the learned counsel for the applicant. The applicant was immediately arrested on the next day of the incident. The sole evidence against the applicant is the recovery of sickle and the circumstances of earlier murder of the son of the deceased.

5. Belated statement of the relatives may raise suspicion. The possibility of involving him in the crime on suspicion may be considered. The applicant was arrested from his home. He did not flee away. The investigation has been completed. Hence, he deserves bail on certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Mahadev Kanhoba Pote, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.203 of 2021, registered at Sirsala Police Station, District Beed for the offence punishable under Section 302 and 506 of the Indian Penal Code, on the condition that;
- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) The applicant shall not enter the village of deceased as well as village Dindrud and Sirsala, till the conclusion of the trial.
- (c) The applicant shall attend the concerned police station on every first Thursday of each month between 12.00 pm to 02.00 pm, till the conclusion of the trial.
- (iii) Criminal Application No.74 of 2023 stands disposed of.

(S.G. MEHARE, J.)