

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

BAIL APPLICATION NO.1858 OF 2023

1. Devnathsingh s/o Mondusingh Rajput,
2. Amol s/o Rajesingh Rajput,
3. Pradeep s/o Rajesingh Rajput. Applicants.

Versus

The State of Maharashtra. Respondent.

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Advocate for Applicants : Mr. A.B. Girase
APP for Respondent : Mr. S.B. Narwade

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CORAM : S. G. CHAPALGAONKAR, J.

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Reserved on : October 31, 2023
Pronounced on : November 03, 2023.

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ORDER :-

1. The applicants are seeking regular bail in connection with Crime No.137 of 2023 registered with Thalner police station, Tq. Shirpur, District Dhule for the offences punishable under section 302, 307, 34 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by Prashant Rajput, who is son of the deceased Vijaysing Raput. He alleges that his father had dispute over partition of agricultural land and movable properties with the accused persons. On 14.9.2023 on the day of Pola Festival, accused persons had threatened Vijaysing not to enter in the agricultural land; else they will kill him. It is

further alleged that on 15.9.2023 at about 3.30 p.m. Vijaysing had been to agricultural land. Until evening, he did not return home. Wife of the brother of the informant telephonically conveyed the aforesaid fact to brother of the informant. Thereafter, search was taken. One of the friend of informant found Vijaysingh in injured condition in the field. It is further alleged that informants friend Kirtiraj told him that while they were searching for Vijaysing, accused persons were in the field. Accordingly, he suspected the applicants to be the assailants of Vijaysing. Based on the aforesaid information, Crime no.137 of 2023 came to be registered with police station Thalner, District Dhule for the offence punishable u/s 307, 34 of the Indian Penal Code. Lateron, during hospitalization on 17.9.2023 Vijaysing lost his life while under medical supervision. The applicants have been arrested in pursuance of the aforesaid crime on 16.9.2023. The applicants moved the Court of Sessions, Dhule for grant of regular bail, however, their prayer is rejected vide order dated 12.10.2023. Hence, this application.

3. Mr. Girase, learned advocate appearing for the applicants submit that the applicants have been arrested only on the basis of suspicion. Even, the first informant make such allegations suspecting the applicants to be the assailants of Vijaysing. He would further submit that applicant no.1 had supplied milk at Tapti Delight Dairy on the day of the incident at about 5.59 pm. His presence is noted in CCTV footage at Mahajan Tea Stall. He would further point out that so far as

the applicant nos.2 and 3 are concerned, their presence is noted in CCTV footage of hotel Heritage at 6.51 pm on the fateful day. He would therefore submit that the applicants have been falsely implicated. Mr. Girase, would point out that applicant no.1 had in fact made complaint against Vijaysing to police officer of Thalner Police Station on 7.1.2023. The police officer had directed him to approach the Court. He would submit that the applicants are law abiding persons. During their custodial interrogation, they have cooperated with the investigation. Nothing incriminating could be found in the investigation. Further, detention of the applicants would not be necessary. Hence, he urges to release the applicants on bail.

4. Mr. Narwade, learned A.P.P. vehemently opposes the prayer. He would submit that investigation is in progress. Plea of alibi sought to be raised on behalf of the applicants cannot be considered at this stage. One of the witness has seen the applicants in the vicinity of the spot of the incident while search was taken for Vijaysing. Investigation is yet to be completed. Release of the applicants is likely to hamper the investigation so also possibility of recurrence of similar incident cannot be ruled out.

5. Having considered the submissions advanced, apparently, FIR raises suspicion against the applicants being assailants of deceased Vijaysing. Postmortem report confirms that head injury was the cause of death. Doctor certifies that injuries are possible by stone or iron blade that was recovered

from the spot. Prima facie material supports homicidal death of Vijaysing.

6. Now, turning to further investigation, it can be seen that clothes of the applicants have been seized during the course of the investigation, however, there is nothing like blood stains or anything incriminating to bring complicity of accused persons in crime. Statement of witnesses have been recorded, which confirms previous enmity between the deceased Vijaysing and the applicants. The gamete of statements raises suspicion against the applicants or brings on record their motive for offence. Although, one of the witness states that while he was searching for Vijaysing, the applicants were seen in the field. That statement cannot be prima facie given status of incriminating circumstances. In that view of the matter, except strong suspicion, investigation papers are bereft in bringing clinching evidence showing complicity of the applicants in commission of offence.

7. The applicants are behind bar since 16.9.2023. The substantial investigation is over. In that view of the matter, only on the basis of suspicion, detention of the applicants cannot be continued any more. However, to secure interest of the investigation, by putting stringent conditions, the applicants can be released on bail. Hence, the order.

ORDER

- i. Bail Application is hereby allowed.

ii. The applicants no.1-Devnathsingh s/o Mondusingh Rajput, 2- Amol s/o Rajesingh Rajput and 3-Pradeep s/o Rajesingh Rajput be released on bail in connection with Crime No.137 of 2023 registered with Thalner police station, Tq. Shirpur, District Dhule for the offences punishable under section 302, 34 of the Indian Penal Code on their furnishing P.B.&S.B. of Rs.50,000/- (Rs.Fifty Thousand), by each of them, on the following conditions :-

- a] The applicants shall not tamper the prosecution evidence.
- b] The applicants shall not enter village Jaitpur, Tq. Shirpur and Thalner, District Dhule till filing of the charge-sheet except for attending the police station in pursuance of this order or requisition of the investigating officer.
- c] The applicants shall attend the concerned police station once in a week i.e. on every Saturday between 10 am to 2 pm till filing of the charge-sheet and shall cooperate the investigation.

iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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aaa/-