

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1914 OF 2023**

SHRIRANG HARIBHAU SHELKE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. S. J. Salunke, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 07th NOVEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.86 of 2017 registered with Ambad Police Station, District Jalna for the offences punishable under Sections 302, 504, 506 r/w 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Mangalbai Mulak, who is daughter-in-law of the deceased Uttam. She alleges that there is dispute in respect of land Gut No.44 between accused persons and deceased. On 03.05.2017, the accused persons entered into the land alongwith tractor and started ploughing. When they were interrupted by the deceased, the accused persons caught hold him and accused Parmeshwar forcibly administered him poison. The accused persons have also assaulted witness Mayuri. The deceased was thereafter shifted to the Hospital for medical supervision, however he could not survive. On the basis of the aforesaid information, Crime No.86/2017 came to be registered with Ambad Police Station for the offences punishable under Sections 302, 504, 506 r/w 34 of the Indian Penal Code. After due investigation, 'A' Summary Report was filed by the Investigating

Officer based on his observation that the presence of the accused persons at the time of offence itself was doubtful and there are contradiction in the statement of witnesses on the material aspects of the matter. However, learned Judicial Magistrate First Class, Ambad vide his order dated 18.10.2022 rejected 'A' Summary Report. Thereafter, supplementary charge-sheet came to be filed on or about 07.06.2023. The applicant has been arrested on 10.08.2023. Since then, he is behind the bar. His application for grant of bail before the Sessions Court has been rejected vide order dated 11.10.2023.

3. Mr. Salunke, learned Advocate appearing for the applicant would submit that the applicant is old aged person of about 75 years. He has been falsely implicated in the aforesaid crime. He would invite attention of this Court to the clinical notes at Government Medical College and Hospital, Aurangabad prepared at the time of admission of the victim, which records history of unknown poisoning. It specifically mentions that patient is conscious and oriented. The continuation sheet of medical treatment states ***'an old male B/B relatives with A/H/O consumption of unknown compound this morning at about 8 am'***. Mr. Salunke would, therefore, submits that it is a case of self consumption of poison, which is given colour of forcible administration of poison on account of civil dispute persisting between the families. He would submit that the Investigating Officer had rightly concluded that no offence is made out. However, report of 'A' Summary has been rejected by the learned Magistrate. Thereafter, supplementary charge-sheet has been filed.

4. The learned APP strongly opposes the prayer for grant of bail. He would submit that the statement of the victim

was recorded in the hospital immediately on the date of incident i.e. 03.05.2017, wherein victim has specifically stated regarding administration of poison by the accused persons. He would submit that the statement of the eye witness Mayuri also supports the narration in the dying declaration. Therefore, he would submit that *prima facie* there is strong evidence against the applicant regarding his complicity in commission of heinous offence of murder. The release of the applicant may hamper smooth trial. Hence, urges to reject the prayer for grant of bail.

5. Having considered submissions advanced, apparently the incident is dated 03.05.2017. The FIR has been lodged on 09.05.2017. Although there is delay in lodging the FIR, the statement of the victim has been recorded on the same day of the incident, wherein victim alleged to have narrated about forcible administration of poison by accused persons. However, on investigation, the Investigating Officer concluded that there is serious variance in statement of witness. Even, as per CDR locations, the accused person were not found in vicinity of spot of the incident. Ultimately, 'A' Summary Report was filed. It appears that, after rejection of said report by the learned Magistrate, the present charge-sheet is filed. Pertinently, no new material is included in the charge-sheet. The very same set of evidence is relied in charge-sheet that was placed before the learned Magistrate alongwith 'A' Summary Report.

6. Be that as it may. The history recorded at the time of admission of the victim do not suggest forcible administration of the poison by accused. On the contrary, the continuation treatment sheet shows that it was a case of self consumption of unknown compound. Coming back to the so called dying declaration of the victim and statement of the alleged eye witness

Mayuri, it can be gathered that accused Parmeshwar is alleged to have administered poison to the deceased Uttam. The allegations against applicant are omnibus. In that view of the matter and particularly considering the age of the applicant, case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Shrirang Haribhau Shelke be released on bail in Crime No.86 of 2017 registered with Ambad Police Station, District Jalna for the offences punishable under Sections 302, 504, 506 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 each and every effective date before the Trial Court.
 - c. The applicant shall not indulge in similar activity.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE