

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1920 OF 2023**

RAHUL AVADHRAM GAUTAM
VERSUS
THE STATE OF MAHARASHTRA

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Mr. C. C. Deshpande, Advocate for the Applicant.
Mr. K. S. Patil, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 10th NOVEMBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.3/2023 registered with Dhule (City) Police Station, Dist. Dhule for the offences punishable under Sections 302, 377 of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by Mr. Buddharam Bipat Gautam, who states that he is resident of Uttar pradesh, however in search of work they came to Dhule and settled there. On 01.01.2023, he had been to the house of deceased-victim Vijaykumar, however he could not meet him. On 02.01.2023, he came to know that the dead body of Vijaykumar was found near public toilet at Shriram Petrol Pump. The informant rushed to the place and noticed that Vijaykumar had sustained several. Accordingly, FIR has been lodged. During the course of investigation, on 03.01.2023 the applicant has been apprehended being suspected culprit. Since then, he is behind the bar. After completion of investigation, charge-sheet is filed.

3. Mr. Deshpande, the learned Advocate appearing for the applicant would submit that the case of prosecution is based

on circumstantial evidence. However, the contents of the charge-sheet are bereft to make out any case against the applicant. He would point out that, the applicant has been arrested on suspicion. No specific motive for commission of offence is shown. Although, the theory of last seen together sought to be brought on record, there is no evidence to support such contention. The so called recovery of weapon under discovery panchanama is of no use in absence of corroboration to complete the chain of circumstances. He would, therefore, urge that the applicant be enlarged on bail.

4. The learned APP strongly opposes the prayer. He would invite attention of this Court to the memorandum of panchanama under Section 27 of the Evidence Act. The weapon of offence i.e. wooden logs are recovered on the basis of disclosure statement of the applicant, which shows blood stains on those articles. He would submit that the CCTV footage depicts applicant was seen in the vicinity of the spot of the incident. The statement of vendor of wine shop shows that the applicant has purchased two bottles of wine on 01.01.2023 at about 17.46 hours. He would, therefore, submit that there is sufficient evidence to bring home guilt against the applicant.

5. Having considered submissions advanced, apparently the case of prosecution is based on circumstantial evidence. It is trite that, in such cases the prosecution has to bring on record the complete chain of circumstances that would pin point guilt against the applicant without possibility of any hypothesis going in favour of the innocence of the accused. If the evidence in the charge-sheet is taken into account in light of the aforesaid principles of law, it can be gathered that the reliance of the prosecution is based on two circumstances, firstly the applicant

was seen in the vicinity of the place where incident has took place and secondly during the course of investigation under discovery panchanama two wooden logs are recovered having blood stains on it. Except these two circumstances, no other circumstance is pointed out to bring home complicity of the applicant in commission of offence. It is true that the postmortem report shows the cause of death as head injury, so also almost 35 injuries were seen on the person of the deceased. However, on the basis of the evidence that is placed into service in the charge-sheet, it cannot be presumed that the applicant is a author of such injuries. The learned APP confirms that there are no criminal antecedents against the applicant. The applicant is behind the bar for more than 10 months. In light of the nature of evidence available on record, further detention of the applicant need not be continued. Hence, case is made out for grant of bail subject to certain condition. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Rahul Avadhram Gautam, be released on bail in Crime No.3/2023 registered with Dhule (City) Police Station, Dist. Dhule for the offences punishable under Sections 302, 377 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 furnish his details regarding his residential address with contact numbers.
 - c. The applicant shall attend each and every date before the Trial Court.

(iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/November-2023