

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

BAIL APPLICATION NO.1959 OF 2023

SURESH BANKAT KALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. S.G. Jadhavar
APP for Respondent : Mr. S.B. Narwade

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CORAM : S. G. CHAPALGAONKAR, J.
Dated: November 07, 2023

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.93 of 2023 registered with Shiradhon police station, District Osmanabad for the offences punishable under sections 302, 364, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code.

2. The investigation was set in motion on a complaint/information given by Ashabai Mahadeo Kale, who states on 8.6.2023 while she was sitting on platform of her house alongwith her husband and other family members, accused Vikas, Suraj, Gangaram, Bablu, Bappa, Ravi Kale with 3 unknown persons arrived in a Scorpio Jeep. All of them alighted from the vehicle and rushed to caught hold the husband of the informant, who ran inside the house. The informant closed the door from inside, but accused persons barged into the room. They dragged the husband of informant out of the house and raised assault by stone on his head, chest

and legs etc. Although others made unsuccessful attempt to rescue him, accused persons continued attack with kicks and fists blows on him. Thereafter, the accused persons further dragged the husband of the informant to push him in the vehicle. The informant reported the incident to the police. The police swung into action. They found dead body of the husband of the informant near Mangrul Pati Bus Stop road. Accordingly, FIR was registered against in all six named and 3 un-named persons.

3. Investigation progressed in the matter. During course of investigation, the applicants have been arrested on 18th August, 2023 being suspects in the crime. On completion of investigation, charge-sheet has been filed with the Judicial Magistrate First Class at Kallamb. The applicants moved application for grant of bail before the Sessions Court. However, their prayer is rejected vide order dated 9.10.2023. Hence, this application.

4. Mr. Jadhavar, learned advocate appearing for the applicant would submit that the applicant has been falsely implicated in the crime. The FIR has been lodged on 9.6.2023, however, name of the applicant is absent in the FIR. He would submit that investigation is completed. Charge-sheet is filed. There is no evidence to bring home participation of the applicant in commission of the offence.

5. Learned A.P.P. however, strongly opposes the prayer for grant of bail. He would point out that in the

supplementary statement of the witness Sardar Chavan, the applicant is named. Further the vehicle used in giving effect to the crime has been seized from the house of the applicant, which stands in the name of the applicant's wife. CDR record depicts location of applicant nearby spot of the incident at the relevant time.

6. Having considered the submissions advanced, apparently, FIR is silent about involvement of the applicant in commission of the offence. Even so-called witness Sardar Chavan in his police statement dated 12.6.2023 did not name the applicant alongwith other accused persons. However, in his supplementary statement dated 18.6.2023 attempt is made to bring involvement of the applicant alongwith other accused persons in the offence. So far as recovery of the vehicle from the house of the applicant is concerned, it would be of no consequence. No incriminating material was found in the vehicle to raise presumption that said vehicle was used during commission of offence. CDR in respect of the applicant is relied to show his location, however, only on the basis of such evidence, it is difficult to prima facie conclude complicity of the applicant in commission of the offence.

7. Investigation in the matter is complete. Charge-sheet is filed. Taking into account nature of the evidence against the applicant, the case is made out for grant of bail. Hence, following order.

ORDER

[i] The application is allowed.

[ii] The applicant - Suresh Bankat Kale be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) with one solvent surety of the like amount in connection with Crime No.93 of 2023 registered with Shiradhon Police Station, Dist. Osmanabad for the offences punishable under Sections 302, 364, 324, 323, 504, 506, 143, 147, 148, 149 of IPC, on the following conditions :-

[a] The applicant shall not tamper with the prosecution evidence.

[b] The applicant shall not enter the village Mal-Karanja, Taluka Kallamb, Dist. Osmanabad.

[c] The applicant shall attend each and every effective date before the trial court.

[d] The applicant shall not indulge in similar offences.

[iii] Bail application is disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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