

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

BAIL APPLICATION NO.1962 OF 2023

DILIP GANPAT MANDE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Narwade Narayan B.
APP for Respondents: Mr. S.A. Gaikwad.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 5th DECEMBER, 2023

ORDER :-

1. The applicants are seeking bail in connection with Crime No. 673 of 2023 dated 17.7.2023 registered with Shrigonda Police station, Dist. Ahmednagar for the offences punishable under Sections 302, 143, 149, 201 of IPC.
2. The investigation has been set in motion on the basis of the complaint given by Rupali Ankush More, who alleges that deceased Samadhan was employed as a driver on the tractor of accused No.1 Dilip More. Samadhan had quarrel with Dilip Mande, Pravin Mande because they were asking him to do some peripheral works. Therefore, he left the job and was cultivating his agricultural land. After 8 to 10 days, accused Dilip Mande took Samadhan with him stating that some repair work of the trolley is to be undertaken. However, Samadhan returned back because of his quarrel with Dilip Mande. It is further alleged that on 14.7.2023, accused Dilip Mande had been to the house of the informant in a Mahindra Bolero Jeep and asked Samadhan to accompany him since he has to repair the trolley. Although Samadhan was reluctant

to go with him, on account of persistent request of accused Dilip Mande, he accompanied him. On 15.7.2023, at about 6.00 p.m., son of the informant Santosh received telephonic call from Dilip asking him to start early. When Santosh rushed to home of accused, he found that dead body of Samadhan was hanging on atree on back side of the house of accused persons. The post mortem was conducted at Rural Hospital at Shrigonda . However, it was objected. Therefore, a second post mortem was carried at Sasoon Hospital, Pune, which notes that Samadhan had internal injuries on his chest and head and cause of death is specified to be hanging associated with blunt trauma to head and chest.

4. On the basis of aforesaid information, offence came to be registered against in all 7 accused persons including the present applicants who have been arrested on 19.7.2023. Since then, they are behind bars. Their plea for grant of bail has been rejected by the Sessions Court vide order dated 25.10.2023. Hence, this application.

5. Mr. Narwade, the learned counsel for the applicants would submit that the applicants have been falsely implicated in the aforesaid crime. Deceased Samadhan committed suicide for some other reasons. However, due to political influence, the applicants have been implicated. He would submit that initially post mortem was carried at Rural Hospital at Shrigonda, Dist. Ahmednagar. No external injuries were found on body of Samadhan except ligature mark which is only ante mortem injury. He would submit that due to village politics and objections, second post mortem has been conducted at Sasoon Hospital, Pune, which noted the cause of death consistent with hanging. Additionally, two injuries are noted in the post mortem report, which are possibly

caused in the attempt of hanging. He would submit that the investigation in the matter is complete. Further detention of the applicants would not be necessary. As such, he urges to release the applicants on bail.

6. The learned APP strongly opposes the prayer for grant of bail. He would submit that apparently there was previous dispute between deceased Samadhan and applicants. They were last seen together in a hotel while taking dinner. The CCTV footage is available in this regard. He would submit that deceased Samadhan was found hanged in the premises of the accused persons. The post mortem report from Sasoon Hospital depicts internal injuries which are consistent with the cause of death.

7. At this stage, learned counsel for the applicants, on instructions submits that he will not press application as regards applicant No.1 Dilip Ganpat Mande and seeks permission to withdraw the same. However, he urges to consider the prayer for grant of bail on behalf of applicant No.2.

8. Having considered the submissions advanced, so far as the applicant No.2 is concerned, there is omnibus reference in the FIR that he and his father Dilip Mande had some dispute with deceased Samadhan who was employed as a driver on their tractor. The FIR further alleges that on 14.7.2023, accused Dilip took Samadhan with him in his Bolero Jeep and thereafter, he was in his company. FIR nowhere attributes role against applicant No.2 when victim Samadhan was taken by accused Dilip with him. It is true that the dead body of Samadhan was found

hanged in the premises of the accused persons, the second post mortem report suggests that there were two internal injuries “ (1) *on reflection of scalp. Under scalp hematoma present over parieto occipital region in middle of size 11 cm. X 08 cm. And (2) on reflection of scalp, irregular shaped fracture of frontal bone of size 06 cm. X 04 cm.*”.

However, there is nothing to suggest that applicant No.2 is the author of the said injuries. The arrest of the applicant No.2 appears to be only on the basis of suspicion. Perusal of the entire charge sheet nowhere suggest that applicant has played any active role in the commission of alleged offence. Charge sheet do not show recovery of any incriminating article at the instance of the applicant No.2. Since the case is based on circumstantial evidence, it is for the prosecution to prove the guilt against the accused beyond reasonable doubt by bringing on record clinching evidence. In the present case, so far as accused No.2 is concerned, charge sheet sans the evidence with requisite degree of firmness. In that view of the matter case is made out for grant of bail.

9.

O R D E R

- (i) The application is partly allowed.
 - (ii) Application so far as applicant No.1 is concerned, stands disposed of as withdrawn.
 - (iii) Applicant No.2 -Pravin Dilip Mande, 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. 673 of 2023 dated 17.7.2023 registered with Shrigonda Police station, Dist. Ahmednagar for the offences punishable under Sections 302, 143, 149, 201 of IPC.
- [a] The applicant No.2 shall not tamper with the prosecution evidence.

[b] The applicants No.2. shall not establish any contact with any witness named in the charge sheet.

[c] The applicant No.2 shall attend trial on each and every effective date.

[d] The applicant shall not enter the village Erandoli, Taluka Shrigonda, Dist. Ahmednagar, till conclusion of trial.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-