

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1963 OF 2023**

SANTOSH RAMKRUSHNA MULIK
VERSUS
THE STATE OF MAHARASHTRA

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Mr. A. K. Bhosle, Advocate for the Applicant.
Mrs. P. V. Diggikar, 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.373 of 2021 registered with Jalgaon City Police Station, District Jalgaon for the offences punishable under Sections 302, 380, 120-B, 201 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by Deelip Rupchand Farse, who states that he resides alongwith his wife and son. His nephew namely Amol resides just two lanes away from his home. Since, Amol lost his mother in childhood, he used to visit his home. On 15.12.2021 he had been to his job in morning hours. When he returned home, he found his house locked and wife was not seen around. On enquiry with the neighbours, he came to know that at about 02.00 pm she left the home alongwith his nephew Amol. The Amol told that he left wife of the informant near Shivajinagar cemetery and then proceeded to the market. It is further alleged that when the informant broke the lock and entered in the house, he found that the box containing gold and silver ornaments was missing. The informant then called his son from Mumbai and lodged missing report with the police station. When CCTV footage in the Shivajinagar area was checked, the wife of the informant was

spotted in the company of Amol, however he consistently took stand that he left her at Shivajinagar cemetery. When police interrogated with Amol, he disclosed the place where dead body of the informant's wife was seen. The statement of Amol alleged to have been recorded under Section 161 of the Criminal Procedure Code, wherein he confessed to have committed offence and also about role of the applicant in crime. Accordingly, the applicant has been arrested on 21.12.2021. Since then, he is behind the bar. His prayer for grant of bail has been rejected by the Sessions Court initially by order dated 13.05.2023 and on second time on 11.08.2023. Hence, this application.

3. Mr. Bhosle, learned Advocate appearing for the applicant would submit that the case of the prosecution is based on circumstantial evidence. The applicant has been arrested on the basis of suspicion. In the entire charge-sheet there is no admissible evidence to bring home guilt of the applicant. The entire thrust of the prosecution case is based on confessional statement of the accused Amol recorded before the police, which cannot be treated as admissible against the applicant. There are no criminal antecedents. The applicant is behind the bar since December-2021. The trial has not progressed. As such, he seeks release of the applicant on bail.

4. The learned APP however strongly opposes the prayer for grant of bail. He would point out that there is voluminous evidence showing complicity of the accused Amol in commission of offence. He was seen in the company of the deceased Mayabai. The CCTV footage is available to confirm the said fact. He had sold the ornaments. The statement of Goldsmith Kunal Saraf is made part of the charge-sheet. Even, Keshav Janbhare, a Rickshaw Driver had seen deceased in the company of the accused

Amol. She would invite attention of this Court to the statement of accused Amol recorded on 21.12.2021, wherein he confessed that he hatched conspiracy in connivance with the applicant with intention to grab the gold ornaments. Further he has confessed to have committed murder by strangulation.

5. Having considered submissions advanced, apparently the case of the prosecution is based on circumstantial evidence. The postmortem report confirms the death of the victim Mayabai on account of strangulation. She was last seen alongwith accused Amol. The recovery of the incriminating articles is made on the discovery statement of the accused Amol. So far as the applicant is concerned, only evidence pressed into service is the statement of co-accused Amol recorded under Section 161 of the Criminal Procedure Code, wherein he confessed about commission of murder in connivance with the applicant and recovery of clothes. It is stated that full pant of the applicant was blood stained.

6. As per postmortem report cause of death appears to have been reserved. The burn injuries were seen on the dead body. All the injuries in column no.17 were postmortem, except injury on the right upper limbs. No bleeding injury was noticed. Therefore, recovery of the blood stained clothes from the applicant may not constitute useful evidence to bring home guilt against him. So far as confessional statement of the accused no.1 is concerned, it is made before the police. Further the statement of co-accused implicating the applicant, itself may not constitute sufficient evidence to bring complicity of the applicant in commission of offence. However, it would be a subject matter of trial and no further discussion is required on this aspect at this stage.

7. Considering the material available on record and fact that the applicant is behind the bar since December-2021, further detention of the applicant need not be continued. The learned APP confirms that there are no criminal antecedents to discredit the applicant. Hence, case is made out for grant of bail subject to certain conditions. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Santosh Ramkrushna Mulik, be released on bail in Crime No.373 of 2021 registered with Jalgaon City Police Station, District Jalgaon for the offences punishable under Sections 302, 380, 120-B, 201 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 establish contact with the witnesses named in the charge-sheet including first informant.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE