



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2013 OF 2023

Shahaji @ Pappu Kachru Telore .. Applicant
Versus
1. The State of Maharashtra,
Through Superintendent of Police,
District Beed
2. The Police Inspector,
Police Station Talwada, Dist. Beed .. Respondents

WITH
CRIMINAL APPLICATION NO. 4412 OF 2023

Dnyaneshwar s/o. Bhanudas Rathod .. Applicant
Versus
1. The State of Maharashtra,
2. Shahaji @ Pappu Kachru Telore,
Age 37 years, Occu. Hotel Owner,
R/o. Talwada, Tq. Gevrai, Dist. Beed .. Respondents

Mr. Sachin S. Deshmukh, Advocate for Applicant (in B.A.);
Mr. S. V. Hange, A.P.P for Respondents/State;
Mr. N. B. Narwade, Advocate for Applicant/complainant (in Criminal
Application No.4412 of 2023)

CORAM : S. G. MEHARE, J.

Dated : December 19, 2023

PER COURT :-

1. Heard the learned counsel for the applicant/accused and the
learned A.P.P for the respondents/State and the learned counsel for the
complainant.

2. The applicant seeks bail in Crime No. 87 of 2023, registered with Police Station Talwada, Taluka Georai District Beed, for the offences punishable under Sections 302, 201, 143, 147, 148, 149, 120B read with Section 34 of the Indian Penal Code.

3. The deceased was a waiter working with the applicant in his hotel. The co-accused Prakash Rathod was also the waiter working with him. As per the first information report, the incident happened between intervening night of 05.04.2023 & 06.04.2023. It is alleged that the wife of the first informant told the uncle of the deceased that on the last night one Sachin Chavan called the deceased. The co-accused Prakash Rathod took him to the hotel and then he was taken to a separate tin shed room where he was served food and he was mercilessly beaten with sticks, fighter, rod and the waist belt. The prosecution has a case that due to the assault, the deceased suffered multiple injuries and he succumbed to the said injuries. It has also been specifically alleged against the accused that he had removed the hard disk of CCTV camera installed in his hotel. He had destroyed it.

4. The learned counsel for the applicant has vehemently argued that the statement of co-accused Prakash before and after arraining him as accused, is inadmissible. One of the eye witness who was also

working with the applicant has been referred to point out that he did not state about the role attributed to the applicant. He would argue that the statement of co-accused is not sufficient to indulge the applicant in the crime. The co-accused Prakash was not immediately examined medically to corroborate the case that he was also assaulted by the applicant and other co-accused. He has referred to the post mortem report and pointed out the nature of the injuries. He also added that mere recovery of waist belt is not sufficient to believe his nexus with the crime. The applicant had no previous enmity with the deceased. He also argued that since there was no role played and corroborative evidence to believe the prosecution story, the applicant deserves bail. He also added that the co-accused who have allegedly beaten the deceased, have been granted bail. Their role was similar to the role attributed to the applicant. Hence, he deserves parity. He prayed for granting bail.

5. Per contra, the learned A.P.P for the State has vehemently argued that the applicant never denied that the deceased and co-accused Prakash were waiters in his hotel. The presence of the applicant at the time of admitting the deceased in the private hospital has been established. He would also argue that the deceased was lastly seen in the company of all accused. He has nothing to do with the relationship

of the deceased with the daughter of one Sachin Chavan, but the entire evidence establishes that he has played an active role. He had directed the co-accused Prakash to bring the deceased to his hotel. He had no reason to confine the deceased in a tin shed besides his hotel. He has no explanation how the deceased was lastly in his company. Though so called eye witness, the waiter in the hotel, did not specifically state about the role attributed to the applicant, again his statement establishes the presence of the accused/applicant on the spot of the incident. The offence is serious. The deceased was mercilessly beaten to death.

6. The learned counsel appearing on behalf of the complainant Mr. Narwade would submit that the injuries reflected in paragraph No. 17 of the post mortem report corroborate the recovery of the belt. He reiterated that the applicant has played the active role.

7. Perused the charge sheet.

8. Reading the statement of the witnesses cumulatively, there appears substance in the argument of the learned A.P.P. that the accused was all the while present on the spot of the incident. The deceased was mercilessly beaten with waist belt, fighter, sticks, wire, etc, that caused him multiple injuries and it was the cause of his death.

Though the statement of co-accused Prakash is ignored, the strong circumstances are against the applicant that indicate the role he played. He has played an active role. He has no explanation what made him to take the deceased to the hospital. Though relatives of the deceased had admitted him, the material collected as regards the incident prior to admitting the injured in the hospital was sufficient to believe that prima facie material is available against the applicant. So far as the role attributed to the other co-accused who is waiter is concerned, their role is apparently different from the role attributed to the applicant. So, the applicant cannot be granted parity. Considering the role attributed to the applicant, material collected against him, the nature of the injuries and gravity of the offence, the Court is not inclined to grant him bail. Hence, the following order.

ORDER

- (i) The application stands dismissed.
- (ii) Criminal Application No. 4412 of 2023 stands disposed of.
- (iii) Needless to state that the findings recorded in this order are restricted to the present application only.

(S. G. MEHARE, J.)