

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

BAIL APPLICATION NO. 2095 OF 2023

**CHANDU S/O. CHANDAR BHOSLE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. U.B. Bilolikar, Advocate for the applicants.

Mr. S.A. Gaikwad, APP for respondent

with

BAIL APPLICATION NO. 2160 OF 2023

**PINTU @ CHATRAPATI RAMA BHOSALE
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. V.B. Patil, Advocate for applicant.

Mr. S.A. Gaikwad, APP for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 8TH DECEMBER, 2023.

ORDER :-

1. The applicants are seeking regular bail in connection with Crime No. 193 of 2023 dated 22.6.2023, registered with Mukhed Police Station, Dist. Nanded for the offences punishable under Sections 302, 364, 342, 324, 323, 143, 147, 148, 149, 506 of the IPC.

2. The investigation was set in motion on the basis of information given by Shamrao Ramkisan Bhosle. In nutshell, it is alleged that the brother of the informant, namely, Krushna Ramkisan Bhosle had borrowed an amount of Rs. 80,000/- towards advance for harvesting sugarcane. However, he could not execute the said work Therefore, the applicant/accused Chandu Chandar Bhosle was pursuing for refund of

the amount. On 8.6.2023, in the afternoon, at about 3.00 p.m., while he was at home alongwith his brother Krushna and mother Kalyabai, accused Chandar Bhosle, Chandu Bhosle, Matabai Bhosle, Rohidas Pawar, Pintu Bhosle arrived at their home and demanded refund of Rs. 80,000/-. When the informant expressed his inability to make payment, the accused persons assaulted Krushna and his mother by fists and kick blows and took all of them to their house at Bhendegaon in an auto rickshaw. It is further alleged that in the evening at about 7.00 p.m, accused persons assaulted informant, his brother Krushna and mother Kalyabai by sticks. Krushna was assaulted on his head and then, they were confined in a room.

It is further alleged that on 10.6.2023, the informant escaped from the house of accused persons. At that time, the applicant made a mobile call to the elder brother of the informant, namely, Balaji and asked for arrangement of Rs. 80,000/- and get relieved the mother and brother. It is further alleged that on 19.6.2023, the informant and his elder brother collected the amount of Rs. 50,000/- and paid it to accused Chandu Chandar Bhosle. Accordingly, on 20.6.2023, Krushna and Kalyabai were relieved. On her release mother reported that being enraged by escape of the informant, accused Chandu Bhosle and others had assaulted Krushna. Krushna was not in a position to speak. He was communicating only by way of gestures. He was taken to hospital at Mukhed. Then, he was referred to Government Hospital at Vishnupuri, Nanded, where, the doctors declared him dead. The FIR alleges that Krushna succumbed to injuries owing to assault at the hands of the accused persons. Based on aforesaid narration, Crime No. 193 of 2023 has been registered with Police Station, Mukhed, Dist. Nanded.

3. The accused have been arrested in pursuance of the aforesaid crime on 10-11th July, 2023. Since then, they are behind bars. The investigation progressed. The statements of the witnesses have been recorded. Supplementary statement of first informant Shamrao is also recorded. On conclusion of investigation, charge sheet is filed. The prayer of the applicant for release on bail has been rejected by the Court of Sessions vide order dated 3.11.2023. Hence, this application.

4. Mr. V.B. Patil and Mr. U.B. Bilolikar, learned advocates appearing for the respective applicants vehemently submitted that the applicants have been falsely implicated in aforesaid crime. They would submit that the present complaint is filed only with an intention to avoid payment that was due with the informant and his family members. They would submit that concocted story has been introduced in the FIR. They invited attention of this court to the supplementary statement of informant, so also, 161 statement of Kalyabai i.e. mother of Krushna to contend that, in fact, from 13.6.2023, Krushna alongwith other family members were hunting at the field of Raju Patil in the vicinity of Hasnal. He died on 20.6.2023 while he was in the company of his family members. They would invite attention of this court to the Post Mortem report coupled with opinion dated 4.7.2023 given by the Forensic Department of the Medical College at Nanded, which suggests that the injuries in column No. 17 are caused 2 to 3 days prior to the death of Krushna and injury in Column no.19 is caused 5 to 7 days prior to his death. They would submit that if Krushna was with his family members since 12.6.2023, the whole genesis of prosecution story appearing in the FIR falls on the ground. They would, therefore, urge that the applicants

be released on bail.

5. The learned APP, however, strongly opposes the prayer. He would contend that the FIR gives elaborate statement as regards to the guild of the applicants, which is supported by the injuries in the post mortem report so also the statements of the witnesses. Prima facie, strong case is made out against the applicant. Hence, he urges to reject the application.

6. Having considered the submissions advanced, it is apparent that the FIR has been lodged by Shamrao i.e. brother of the deceased on 22.6.2023. Krushna took last breath on 20.6.2023. As per the story in the FIR, the accused persons abducted the first informant Shamrao, his brother Krushna and mother Kalyabai on 8.6.2023. Thereafter, the first informant escaped from the custody of accused persons on 10.6.2023. After his escape, he arranged for the money and got relieved his mother and brother Krushna on 19.6.2023. Pertinently, the supplementary statement of first informant shamrao is recorded on 29.6.2023, wherein, he states that on 13.6.2023, he alongwith his brother Krushna and other family members had been to Hasnal for hunting and they were doing so till 17.6.2023. From 19.6.2023 his brother Krushna was feeling giddiness and he was vomiting. Therefore, he was taken to Civil Hospital and then to the Higher Center at Vishnupuri Nanded, where, he breathed his last.

7. The narration in the FIR and the supplementary statement contradicts each other. The statement of Kalyabai also gives version in line of supplementary statement of Shamrao, which depicts that since 12th June, 2023, deceased Krushna and other family member were

together and they were hunting in the vicinity of village Hasnal, whereas, in FIR, it is stated that from 8.6.2023 to 19.6.2023 Krushna and his mother were confined by the accused persons.

8. The post mortem report depicts the cause of death to be “Head Injury”. The certificate issued by the Forensic Department dated 4.7.2023 shows that the injuries appearing in column No 17 might have been caused 2 to 3 days prior to the death of Krushna. Krushna died on 20.6.2023. The injuries in Column No. 19 are expected to have been caused 5 to 7 days prior to the death of deceased. If we consider the said opinion and the injuries depicted in post mortem report must have been caused after 13.6.2023. If the supplementary statement of informant Shamrao, his mother Krushnabai alongwith the statement of witness Sanjay Warkad (Patil) and Satyam Meherkar (Auto-richshaw driver) are considered, from 13.6.2023, deceased Krushna was in the company of his family members and not confined by the applicants. It is therefore difficult to prima facie hold that the accused persons are author of the injuries suffered by Krushna and responsible for his death. The genesis of the prosecution case appears to have been shaken in view of the material inconsistency in the statement of the witnesses, contents of the FIR and the medical evidence, which is made part of the charge sheet. In view of the aforesaid observations, prima facie, prosecution case does not inspire confidence. Hence, a case is made out for grant of bail. As such, the following order :-

O R D E R

- (i) The applications are allowed.
- (ii) Applicants in BA No. 2095 of 2023 (1) Chandu S/o. Chandar

Bhosle and (2) Chandar S/o. Bhosiram Bhosle and Applicant in BA No. 2160 of 2023 – Pintu @ Chhatrapati Rama Bhosale, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) each, with one solvent surety of the like amount, each, in connection with Crime No. 193 of 2023 dated 22.6.2023, registered with Mukhed Police Station, Dist. Nanded for the offences punishable under Sections 302, 364, 342, 324, 323, 143, 147, 148, 149, 506 of the IPC, on the following conditions :-

- [a] The applicants shall not tamper with the prosecution evidence.
- [b] They shall attend each and every effective date of trial before the trial court.
- [c] The shall not indulge in criminal activities.
- [iii] Needless to mention here that the observations made above are on prima facie consideration of the material on record and are made only for the purpose of deciding the application.
- [iv] Both the applications stand disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-