



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

BAIL APPLICATION NO.2096 OF 2023

**SUNIL MADHUKAR UDIKAR
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Abhaysinh K. Bhosle
APP for Respondent : Mrs. P.J. Bharad

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

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.0193 of 2023 registered with Mohadi Nagar police station, District Dhule for the offences punishable under sections 304, 367, 323, 504, 506, r/w 34 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by one Gaurav Vyavahare, stating that on 4.7.2023, he received information from his cousin Ashok Vyavahare that his cousin sister Shital expired at Civil Hospital, Dhule. They had been to Civil Hospital and possessed corpus of the Shital. Her last rites were performed at Thangaon. Next day, informant came to know that Shital had recorded her statement while she was admitted to the Government Hospital, at Malegaon before she was shifted to Civil Hospital, Dhule. Dead body of Shital was showing several marks of injuries on her face and legs. Statement of the Shital recorded before her

death at Malegaon shows that on 24.6.2023 she was assaulted by the accused/applicant. Because of said assault, she had suffered injuries on her head and other parts of the body. Thereafter, she was left at Zodge beside road. The record show that on 25.6.2023 she was located injured at that place. Police Patil arranged to shift her to the Hospital at Malegaon. On 3.7.2023 she was refereed to Civil Hospital at Dhule and on 4.7.2023 she took her last breathe. Accordingly, it is alleged that deceased, who was working in Dreams Herbal Company at MIDC owned by the applicant/accused was seriously beaten on 24.6.2023. Consequently, she lost life. Based on the aforesaid information, crime no.193 of 2023 came to be registered with police station Mohadinagar for the aforesaid offences. The applicant has been arrested on 23.7.2023. Investigation progressed. Finally charge-sheet came to be filed against accused persons. The prayer of the applicant for grant of bail has been rejected by the Court of Sessions vide order dated 16.10.2023. Hence, this application.

3. Mr. Bhosale, learned advocate appearing for the applicant would submit that the applicant has been falsely implicated. He would submit that although the victim died on 4.7.2023, FIR has been lodged on 22.7.2023. A concocted story has been developed in the FIR. He would submit that even going by the allegations in the FIR, no offence punishable under section 304 or 367 of the IPC can attract in the present case. The deceased was hospitalized on 25.6.2023. Initially she was treated at Malegaon. In the injury certificate, only

four injuries were noted. However, postmortem report shows several injuries, for which the applicant cannot be held responsible. He would point out that on 24.6.2023 i.e. the date of incident, victim had left the Dreams company after alleged quarrel with applicant. Again she consumed the liquor till late night at hotel. Then, next morning she was located beside the road. Injuries found on her person might have caused by any other reason and cannot be attributed to so-called assault by the applicant. He would further submit that investigation in the matter is complete. Charge-sheet is filed. Further detention of the applicant would not be necessary. As such, he seeks release of the applicant on bail.

4. Learned A.P.P strongly opposes the prayer contending that deceased was brutally assaulted. Consequently, she died. Evidence of the witnesses suggests that the applicant was author of the injuries. Postmortem report depicts large number of the injuries on the person of the deceased. There is nothing to indicate that deceased could have received such injuries on account of any other reason. Prima facie material on record is sufficient to find out guilt of the applicant.

5. Having considered the submissions advanced and after going through the documents, it appears that the deceased was employee of the Dreams Herbal Company owned by the applicant. The evidence on record suggests that there were some dispute between the applicant and deceased Shital and she was assaulted by the applicant on 21.6.2023, for

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which Shital had recorded a complaint with Mohade Nagar Police Station, Dhule. The NC was registered in pursuance of the said complaint under section 155 of the Cr.P.C. The statements of witnesses recorded in present crime which are made part of the charge-sheet suggests that on 24.6.2023 victim, applicant with some visitors of the company consumed liquor at Hotel Manas between 3 to 5 p.m. Thereafter, there was altercation between applicant and deceased Shital in premises of the company and on account of assault by kick and fist blows raised by the applicant, deceased Shital had suffered the injuries, including a bleeding injury on her head. Deceased Shital was seen abusing to the applicant in filthy language. Statement of Kalpesh Kadam, owner of the hotel Niyati shows that after aforesaid incident, again deceased Sheetal went to Hotel Niyati and consumed liquor till late night and lost her consciousness. Thereafter, employees of company were given call by hotel owner and she was taken in a car. The next morning i.e. on 25th she was found laying on the road and Police Patil of village arranged for her admission to the hospital. Accordingly, she was admitted to the civil hospital at Malegaon. Her statement was recorded on 25.6.2023, wherein she disclosed that the applicant had beaten her by fist and kick blows causing various injuries including a head injury. After initial treatment, till 3.7.2023 she was shifted to the Government Hospital, at Dhule, where she died.

6. The injury certificate at Civil Hospital, Malegaon suggests almost 19 injuries on person of Sheetal attributable to

hard and blunt weapon. Postmortem report concurs with the aforesaid injuries, however, cause of death is reserved. The aforesaid sequence of events suggests that deceased Shital was beaten by the applicant on 24.6.2023 at about 5.30 p.m. It does not suggest use of any weapon. Even, the statement of deceased Shital recorded at Civil Hospital Malegaon shows that she was beaten by fist and kick blows by the applicant. She died after ten days of incident.

7. Investigation in the matter is concluded. The charge-sheet is filed. The applicant is behind bar for four and half months. Whether the deceased died consequent upon the injuries caused by the applicant, whether such injuries are caused by him with intention or knowledge to attract definition of culpable homicide are the questions to be decided in the trial. However, on prima facie consideration of overall material on record, it could be gathered that the applicant as well as deceased Shital were under influence of liquor. When they had scuffle and the applicant has given kick and fist blows to her. Prima facie, no intention or knowledge of causing death can be gathered. In that view of the matter, case is made out for grant of bail subject to certain conditions. Hence, the following order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant - SUNIL MADHUKAR UDIKAR be released on bail in connection with Crime No.0193 of 2023 registered with Mohadi Nagar police

station, District Dhule for the offences punishable under sections 304, 367, 323, 504, 506, r/w 34 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/-(Rs. Fifty Thousand), on the following conditions :-

- a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court and shall co-operate for early disposal of the case.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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