



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

947 BAIL APPLICATION NO. 2173 OF 2023

MADANKUMAR @ DIPAK PREMSINGH RATHOD

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

.....

Advocate for Applicant : Mr. A.K. Bhosle
APP for Respondents/State : Mr. A.S.Shinde

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CORAM : S.G. CHAPALGAONKAR, J.

DATE : 13.12.2023.

PER COURT :

1. The applicant seeks regular bail in connection with Crime No. 252 of 2021 registered with Jalgaon Taluka police station, Tq. Jalgaon, District Jalgaon for the offences punishable under sections 302 read with Section 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Rohidas Abhaysingh Rathod, who alleges that his elder brother Premsingh Rathod has two sons namely Gautam @ Gopal Premsingh Rathod and Deepak

Prem Singh Rathod. He resides along with his son, wife Basantbai and daughters Kavita and Shivani. It is alleged that deceased Prem Singh, his wife and son had disputes since the Prem Singh was doubting the character of his wife Basantibai. On 12.09.2021 his nephew Deepak Rathod informed him that his father Prem Singh is beating his mother and quarrel is going on that count. Informant rushed to the house of his brother where he found his brother Prem Singh was lying on the road. He had sustained injuries on his chest and the blood was oozing. On inquiry Basantibai told that since Prem Singh was abusing her, her son Gopal and Deepak have inflicted blows of knives on the person of Prem Singh. On the basis of aforesaid information the applicant has been arrested on 12.09.2021. Since then he is behind the bar. His prayer for grant of bail came to be rejected vide order dated 18.12.2021.

3. Mr. Bhosale, learned Advocate appearing for the applicant would submit that the deceased was doubting the character of his wife. On the date of incident he was hurling abuses against her. Therefore, the quarrel was started. Referring to the statement of eye witness Prasad Ravindra Ghorpade, he pointed out that accused Gautam @ Gopal is

attributed the assault of knife on the person of the deceased. The applicant Deepak is alleged to have beaten the deceased by stick. The Postmortem report shows cause of death is bleeding injury over the chest, which is not attributed to the applicant. The applicant is behind the bar for more than 2 years. The trial is at nascent stage. Indefinite incarceration of under trial accused is deprecated and is contrary to the guarantee under Article 21 of the Constitution. He would further pointed out that the recovery of incriminating weapon is also made from the co-accused.

4. The learned APP however, strongly opposes prayer for grant of bail. He would submit that the contents of F.I.R. as well as statements of the witnesses depicts that the applicant assisted co-accused in causing injuries on chest of the deceased. The applicant had caught hold the deceased by which he facilitated the co-accused to inflict fatal blows. He would therefore, submits that the applicant is not entitled for grant of bail.

5. Having considered the submissions advanced, it is apparent that the deceased had quarreled with his wife who is

mother of the applicant. The deceased was raising doubt over her character and also abusing her, because of such conduct on the part of the deceased, quarrel initiated. During the scuffle the co-accused suddenly took out knife and inflicted injury on chest, back and leg of the deceased. The postmortem report suggests that the cause of death to be bleeding injuries and specially the injury on the chest, which is not attributed against the applicant. Looking to the contents of the charge-sheet the applicant is alleged to have used stick and inflicted injuries on the person of the deceased. The careful consideration of the statement of the eye witnesses suggest that there is inconsistency regarding the role attributable against the applicant. The applicant is behind the bar for more than 2 years. There are no criminal antecedents to the discredit of the applicant. The trial is at the nascent stage and it may take much time to conclude. Considering the aforesaid circumstances, further detention of the applicant need not be continued. Hence the case is made out for grant of bail. Hence the following order :

ORDER

- i. Bail Application is hereby allowed.

ii. The applicant – Madankumar @ Dipak Premsingh Rathod be released on bail in connection with Crime No. 252 of 2021 registered with Jalgaon Taluka police station, Tq. Jalgaon District Jalgaon for the offences punishable under sections 302 read with Section 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 date before the trial Court and co-operate for early disposal of the case.

iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

mahajansb/