



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

941 BAIL APPLICATION NO. 2133 OF 2023
WITH
CRIMINAL APPLICATION NO. 4447 OF 2023
IN BA/2133/2023

RAVINDRA LIMBARAJ TAWALE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

.....

Advocate for Applicant : Mr. N.S. Ghanekar h/f Mr. Madake
D.A.

APP for Respondents/State : Mrs. P.J. Bharad
Advocate for Respondent No. 2/Complainant : Mr. V.D. Sapkal
(Senior Counsel) i/b A.B.Jagtap

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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. 227 of 2023 registered with Yermala police station, District Osmanabad for the offences punishable under section 302 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the

information given by one Sandeep Bhujang Tavale, who alleges that the family of the informant is depending upon an agriculture. They hold agricultural land situated at Shelgaon in Gut No. 173. The applicant/accused is an adjacent land holder. The disputes persists between the informants family and the applicant since last 5 -6 years. A proceeding is pending in the Court at Aurangabad. It is further alleged that informant's on 19.07.2023 brother/Santosh had slept at vasti during the night. In the morning he was found dead. There were cut injuries on his throat. Accordingly, applicant was suspected to be culprit. On the basis of aforesaid information the applicant came to be arrested on 20.07.2023. The investigation progressed. The charge-sheet came to be filed. A prayer of the applicant for grant of bail has been rejected by the Court of Sessions by order dated 08.11.2023. Hence this application for bail.

3. Mr. Ghanekar, learned Advocate appearing for the applicant submits that the case of the prosecution is based on circumstantial evidence. He would submit that except suspicion against applicant there is no incriminating material in the charge-sheet that will complete the chain of circumstances to

bring home the guilt against the applicant. He would submit that a concocted version of the incident is brought on record. The witnesses who are on inimical terms to the applicants are sought to be relied during the investigation and based on such evidence, charge-sheet is filed. He would therefore urged that the applicant be enlarged on bail.

4. The learned APP strongly opposed the prayer for grant of bail. She has been assisted by the learned Senior Counsel Mr. Sapkal appearing for complainant. It is submitted that the manner of investigation has been doubted by complainant. A Writ Petition is filed on behalf of the complainant seeking transfer of the investigation. Mr. Sapkal, Senior Advocate would submit that the charge-sheet contains the evidence in the nature of recovery of weapon, similarly clothes of accused are seized during the course of investigation. The postmortem report clearly depicts that the cause of death as by cut throat injury which is possible by the weapon recovered. He would invite attention of this Court to the statements of 3 eye witnesses who asserted that a white colour Swift car was seen passing during the night in the vicinity of spot of incident.

The description of car is given by witnesses which shows it belongs to the applicant. The aforesaid evidence will complete the chain of circumstances and sufficient to prima-facie hold that the applicant to be a culprit.

5. Having considered the submissions advanced and after going through the contents of the charge-sheet it is apparent that the case of the prosecution is based on circumstantial evidence. Following circumstances are relied in the charge-sheet to bring home the guilt against the accused 1) There is strong motive since the applicant was in dispute with deceased and his family on account of the agricultural lands, 2) During the course of investigation an axe is recovered under the memorandum panchanama from the applicant. 3) The clothes of applicant are recovered under the seizure panchanama under Section 61 and 65 of the Code of Criminal Procedure. 4) Postmortem report suggests death on account of cut throat injury, which can be attributed to weapon recovered. 5) A car of the applicant was seen in nearby place of the incident by 3 eye witnesses.

6. Prima-facie it appears that the applicant was in dispute with the family of the deceased. There is some substance so far as the motive is concerned. However, the recovery of an axe itself would not constitute evidence in absence of it being blood stained. Axe is commonly available with agriculturist. Same is the case of the seizure of the clothes. Panchanama do not depicts that either alleged weapon of the offence or the seized clothes had any blood stains. Therefore, there is no necessity to wait for chemical analyser's report in this regard. Prima-facie medical evidence suggest that the injuries suffered by the deceased are possible by the weapon, however, in absence of evidence to connect the aforesaid weapon with the injuries suffered by the deceased, the recovery of axe cannot be given much importance. Last circumstance is based on the statements of 3 eye witnesses, who asserts that the car of the applicant was seen passing in the night from nearby location of the incident.

7. Apparently it was night time and all witnesses are stating that they seen the car in the night hours at about 1.00 a.m. or 2.00 a.m. and they are giving description along with

registration number of car. Prima-facie it would be difficult for any one to note the number of the running car in the night hours. Further Mr. Ghanekar learned Advocate appearing for the applicant points out that all such statements are recorded after long gap from the date of incident. Pertinently, witness Subhash and Chayabai are having pending litigation against the applicant and they have a reason to falsely implicate the applicant. In that view of the matter, the evidence tendered in the service on behalf of prosecution appears to be bereft to complete the chain of the circumstances.

8. Needless to state that observations made hereinabove are based prima-facie of consideration of contents of charge-sheet and only for the purpose of disposal of this application. In that view of the matter case is made out for grant of bail, subject to certain conditions. Hence the following order :

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant – Ravindra Limbaraj Tawale be released on bail in connection with Crime No. 227 of 2023 registered with Yermala police

station, District Osmanabad for the offences punishable under sections 302 of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.1,00,000/- (Rs. One Lakh), on the following conditions :-

- a) The applicant shall not temper with the prosecution evidence.
 - b) The applicant shall not enter the village Shelgaon, Ta. Kalam, District Osmanabad till the conclusion of trial.
 - c) The applicant shall attend each and every date of the trial and co-operate for early disposal of the case.
- iii. Bail application is accordingly disposed off.
- iv. Pending Criminal Application No. 4447 of 2023 is disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

mahajansb/