

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

956 BAIL APPLICATION NO. 2265 OF 2023

RANJIT SARJERAO KALUNKE

VS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Salunke Sudarshan J.

APP for Respondent/State : Mr. A.S. Shinde

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 21.12.2023

PER COURT :

1. The applicant seeks regular bail in connection with Crime No. 158 of 2023 registered with Ambajogai (Rural) police station, District Beed for the offences punishable under sections 302 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by Sidhu Goroba Kalunke who alleges that on 17.06.2023 at about 1.30 a.m. while he was asleep at home his cousin Balaji rushed to him and informed that Mahadev i.e. brother of the informant is laying at barren land beside canal road in injured condition. When informant rushed to the spot he found severe injuries on head of his brother and there was bleeding from his nose and mouth. Therefore, he suspected that unknown person caused death of his brother by assaulting with stone. The applicant came to be arrested in pursuance of the aforesaid crime on 18.06.2023. His prayer for grant of bail has been rejected by the Court of Sessions vide order dated 19.10.2023.

3. Mr. Salunke, learned advocate appearing for the applicant would submit that the applicant has been falsely implicated in aforesaid crime. The

applicant had no motive to cause murder of the deceased. The case of the prosecution is based on circumstantial evidence, however, the material in charge-sheet is insufficient to bring guilt against the applicant/accused. The applicant is behind the bar for almost six months. The investigation is complete. Charge-sheet is filed. Further detention of the applicant would not be required.

4. The learned A.P.P. strongly opposes the prayer. He would submit that the applicant was lastly seen at nearby place where the dead body of deceased was found. Similarly because deceased Mahadev had stolen the mobile phone instrument of the applicant which was returned on next day, the applicant was harbouring a grudge against deceased. He would submit that after arrest of the applicant the seizure panchnama is carried. The clothes and slippers are seized from his person depicting blood stains. The report of the Chemical Analysis is still awaited. As such, *prima facie* sufficient evidence is collected to pin point the guilt against the applicant/accused.

5. Having considered the submissions advanced, apparently the case of the prosecution is based on circumstantial evidence. The F.I.R. was lodged by Sidhu Goroba Kalunke raising suspicion against unknown person for murder of the deceased. The applicant has been arrested as suspect. The statement of Vishwas Kalunke depict that in the night Mahadev was seen laying near the canal road under influence of liquor. The statement of Arunabai appears to have been recorded on next day of the incident who state that the applicant was seen by her while proceeding towards barren land in night at 00 hours. Thereafter, the recovery of the clothes and pair of slippers of the applicant is shown as per seizure panchnama dated 17.06.2023. The narration seized articles shows blood stains on the pant and slippers. The aforesaid articles have been sent to the Forensic Laboratory for chemical analysis. The report is still awaited.

6. Taking overall survey of the evidence in charge-sheet apparently, there is no strong motive with the applicant to cause death of deceased Mahadev. Mobile phone instrument, which is immediately returned back to the applicant would not constitute a motive for such an offence. The statement of Arunabai depicting applicant walking towards the barren land in night hours cannot be equated with the evidence of last seen together. It is apparent from the statement of the witnesses that barren land was used by the villagers to answer nature's call. Therefore, any one passing through the land or coming back can be considered as movement in natural course.

7. The last and most significant circumstance relied upon by the prosecution is recovery of blood stained clothes and slippers. As rightly pointed by Mr. Salunke, learned advocate, that the seizure of the articles is shown from the person of the applicant in panchnama carried after 23 hours of the incident. It would be difficult to believe that a person having committed murder would remain with the blood stained clothes and slippers for the period of 23 hours. Therefore, it is difficult to bring home complicity of the applicant in commission of offence based on the evidence in the charge-sheet. It is trite that in case where prosecution relies upon circumstantial evidence the chain of circumstances will have to be complete without any possible hypothesis leading towards innocence of the accused. The evidence in the charge-sheet *prima facie* appears bereft to make out the case against the applicant, therefore, further detention of the applicant need not be continued. A 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 Ranjit Sarjerao Kalunke be released on bail in connection with Crime No. 158 of 2023 registered with Ambajogai (Rural) police station, District Beed for the offence

punishable under sections 302 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.
- c] The applicant shall not indulge in any criminal activity.

8. The observations made above are restricted for disposal of present application and those are based on *prima facie* consideration of material in charge-sheet.

9. The Bail Application is disposed of

(S. G. CHAPALGAONKAR, J.)

mkd/-