

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

BAIL APPLICATION NO. 2268 OF 2023

**PRAKASH ROHIDAS RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. Lukhe Arjun Raosaheb
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. 87 of 2023 registered with Talwada police station, District Beed for the offences punishable under sections 302, 201, 143, 147, 148, 149, 120-B of the Indian Penal Code.

2. The investigation was set in motion on the basis of information given by Dnyaneshwar Bhanudas Rathod, who is uncle of the deceased Rameshwar Rathod. It is alleged that on 6.4.2023 at about 6.00 p.m., he received a message from one Ganesh Chavan that Rameshwar Rathod has pains in the stomach and he is required to be taken to civil hospital at Georai. Thereafter, the informant and his brothers had been to civil hospital where, it was noticed that Rameshwar had suffered multiple injuries of assault by belt, sticks, wires, rods etc. and there were marks of such injuries on his person. Informant further alleged that his wife, Saraswati told him that on 5.4.2023 at about 9.30 p.m. Sachin Lahu Chavan made a telephonic call and in response to the same, Rameshwar had left the home. It is further alleged that accused Sachin Chavan, Prakash Rathod, Sham Shinde and Shahaji @ Pappu Tailure assaulted him for the reason of stalking a girl.

The investigation progressed. The applicant has been arrested in pursuance of the aforesaid crime. On completion of investigation charge sheet has been filed.

3. The learned advocate for the applicant submits that the applicant is innocent person. In fact he is also victim of the incident. However, he has been falsely implicated as an accused. He would submit that the deceased lost his life because of multiple injuries. None of injury seen on vital part of the body of deceased. Deadly weapons were not used in commission of the offence. Further, no specific role/attributes made against the applicant in assault to deceased Rameshwar. The applicant is behind the bar since 24.04.2023. The investigation is complete and the charge-sheet is filed. Further detention of the applicant would not be necessary.

4. The learned A.P.P strongly opposes the prayer for grant of bail. He would point out that deceased Rameshwar was mercilessly beaten. The cumulative effect of the multiple injuries caused his death. The applicant is named in the F.I.R. The role of the applicant is depicted in the statements of the witnesses. Therefore, he opposes the prayer for grant of bail.

5. Having considered the submissions advanced and perusal of the contents of the charge-sheet, apparently the applicant is named in the F.I.R. However, no specific role is attributed against him. The reason for assault on deceased Rameshwar is stated to be his conduct against the daughter of accused Sachin Chavan. The statement of witness Ramesh Mhatre who was manager at the hotel (where the incident has taken place), depict that the applicant had caught hold the deceased and accused Sachin Chavan, and Kalyan Shingane assaulted him by belt. Thereafter, other accused persons raised assault against deceased Rameshwar. Apparently, the statements of the eye witnesses depict no role of the applicant as assailant of the deceased. The case diary details which are part of charge-sheet specifically states that the applicant /accused has cooperated during the course of investigation.

Applicant was also victim of the assault. The case diary refers that in fact applicant was instrumental in collection of the material. The place where the mobile of the deceased was destroyed was shown by the applicant. However, that cannot be used as incriminating circumstance against him in absence role in actual assault. The statement of the applicant is recorded under Section 164 of the Code of Criminal Procedure, wherein he has given detail narration of the incident. Apparently, applicant could have been best witness for prosecution. The co-accused persons are enlarged on bail.

6. On *prima facie* consideration of the material in charge-sheet it is difficult to bring home guilt against the applicant. The applicant is behind bar since last eight months. Trial would take its own course. No criminal antecedents brought to notice of Court. His further detention need not be continued. A case is made out for grant of bail.

O R D E R

- i. Bail Application is hereby allowed.
- ii. The applicant Prakash Rohidas Rathod be released on bail in connection with Crime No. 87 of 2023 registered with Talwada police station, District Beed for the offences punishable under sections 302, 201, 143, 147, 148, 149, 120-B 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.

7. The Bail Application is disposed of.

(S. G. CHAPALGAONKAR, J.)

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