

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 400 OF 2022

Tanaji Audumbar Chavhan

....Applicant/Accused No.2

Versus

State of Maharashtra

....Respondent

Mr. K. S. Patil i/b Prashant Hagare for the Applicant.

Mr. Amit A. Palkar, APP, for the Respondent-State.

CORAM : G. A. SANAP, J.

DATE : 26th OCTOBER, 2023.

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P.C. :

1. The Applicant/Accused No.2 has made this Bail Application for bail in C. R. No. 715 of 2020 registered with Malshiras Police Station, Dist - Solapur for the offences punishable under Sections 302, 120-B read with 34 of the Indian Penal Code, 1860 (for short "IPC") and Section 135 of the Maharashtra Police Act, 1951.

2. The learned Advocate for the Applicant/Accused No.2 submitted that Accused Nos. 1 and 3 have been released on bail by the Sessions Court. The learned Advocate took me through the record

and pointed out that the role attributed to Accused Nos.1 and 3 is more or less identical. The learned Advocate submitted that there is no evidence to establish complicity of Accused No.2 in the crime. Learned Advocate submitted that on account of same dispute with regard to the landed property between Accused No.1 and the deceased, the inference has been drawn that the said dispute might be the cause for the murder of the deceased. Learned Advocate submitted that charge has not been framed despite filing the charge-sheet. It is submitted that trial may take its own time and as such further incarceration of Accused No.2 is not necessary. Learned Advocate for the Applicant/Accused No.2 submitted that the Accused No.2 is ready to abide by conditions that may be imposed by this Court.

3. Learned APP submitted that, there was illicit relations between Accused No.1 and Accused No.2. It is submitted that, in the property dispute between Accused No.1 and the deceased, the Accused No.2 supported to the Accused No.1. It is submitted that the Accused Nos. 1 and 2 therefore conspired to kill the deceased. Learned APP submitted that the case is based on circumstantial evidence and the release of the Accused No.2 on bail may lead to

tamper with the valuable evidence. Learned APP submitted that ground of parity put forth by the Accused No.2 is not available.

4. I have gone through the record and proceeding. I have perused the report as well as the bail orders of Accused No.1 and Accused No.3. The cause of death stated in the Post Mortem Report is due to multiple injuries. It is undisputed that the deceased was addicted to liquor.

5. According to the prosecution, the property dispute between the Accused No.1 and the deceased had escalated and Accused No.2 supported the Accused No.1. It is seen that, there is no direct evidence of assault or beating the deceased by the Accused. The case is based on circumstantial evidence.

6. Learned APP took me through the statement of one witness who had carried the deceased to hospital. In his statement, he has stated that, when they went to the spot, they found the deceased in unconscious condition and in the unconscious conditions, he was uttering the name of Accused No.2.

7. In my view, while deciding the Bail Application, the merits of the matter cannot be gone in to. On consideration of the material on record the Accused Nos. 1 and 3 have been granted bail.

8. I am of the view that the ground of the parity put forth by Applicant is not completely misplaced. In the fact and circumstances, the subject to appropriate conditions bail can be granted to the Accused. As yet charge has not been framed. It is seen that no concrete statement has been made in the reply with regard to the time require for completion of trial. In the fact and circumstances of this case bail cannot be denied to the Accused.

9. Accordingly the Application is allowed.

ORDER

- i. Bail application is hereby allowed.
- ii. Applicant/Accused by name Tanaji Audumbar Chavhan, be released on bail on executing PR and SB of Rs. 30,000/- (Thirty Thousand) or two surety of Rs. 15,000 (Fifteen Thousand).
- iii. Applicant/accused is hereby directed not to tamper with prosecution evidence, so as not to pressurize prosecution witness and co-operate I.O. during course of investigation.
- iv. Further he is directed not to contact with

informant, witnesses, her relatives directly or indirectly.

- v. The Accused No.2 shall not enter the limits of Malshiras Taluka till the conclusion of the trial, except for the purpose of attending the trial and that too by giving prior intimation of his visit to the Malshiras Police Station.

(G. A. SANAP, J.)