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

CRIMINAL BAIL APPLICATION NO.496 OF 2023

Ravi Madhukar Yelmane	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Aniket Ujjwal Nikam a/w Mr. Aashish Satpute, Mr. Piyush Toshnival i/by Mr. Amit Icham, for the Applicant.

Mr. Pandurang H. Gaikwad, APP for the Respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 14, 2023

P.C.:

1. This is an application under Section 439 of the Criminal Procedure Code, 1973 in connection with CR No.I-371 of 2021 dated 24th November, 2021 registered with Panchvati Police Station, District Nashik for offences punishable under Sections 302, 341, 212, 120 (b) read with 34 of the Indian Penal Code, 1860 and Section 142 of the Maharashtra Police Act, 1951.

2. According to the prosecution, there was an conspiracy hatched by the applicant to kill the deceased due to business rivalry between the deceased and the applicant. Deceased had helped the applicant monetarily. However, two to three months prior to the incident, the applicant and the deceased had disputed. The deceased and his maternal brother had assaulted the applicant. Due to the business rivalry and jealousy of deceased economic progress, the applicant and his brother had decided to

kill the deceased. On 23rd November, 2021, the applicant was riding a motorcycle and co-accused Dadu was on access two wheeler, they followed the deceased. At petrol pump near Sharadchandra Pawar market opposite RTO office, accused Nos.1 to 3 had quarreled with the deceased.

3. At that time, accused Dadu (Ganpat Popat Uike) assaulted the deceased on his head by lying stone adjoining road. According to the prosecution, accused No.2 also assaulted deceased on his head, face and chest by stone.

4. The investigating agency arrested the applicant on 25th November, 2021. After completion of investigation, the investigating agency has filed charge-sheet against the accused persons along with applicant.

5. On perusal of the charge-sheet, it appears that except presence of applicant at the spot of incident, no other active role is attributed to the applicant. According to the prosecution, the applicant conspired to kill the deceased. However, considering the nature of weapon (stone) used to carry out assault and the manner assault by other co-accused without active participation of the applicant, at this stage, I am of the opinion that the prosecution needs to prove conspiracy angle against the applicant during the trial. Therefore, in my opinion, in the absence of active role is attributed to the applicant, the applicant has made out a case for release under Section 439 of the Code of Criminal Procedure, 1973. Hence, following order:

- i) The applicant Ravi Madhukar Yelmame be released on bail in connection with CR No.I-371 of 2021 dated 24th November, 2021 registered with Panchvati Police Station, District Nashik for offences punishable under Sections 302, 341, 212, 120 (b) read with 34 of the Indian Penal Code, 1860 and Section 142 of the Maharashtra Police Act, 1951 on furnishing PR. Bond in the amount of Rs.50,000/- with one or two sureties in the like amount;
- ii) The applicant shall mark his presence to the concerned police station on first Saturday of each month between 11.00 a.m. to 2.00 p.m. till conclusion of the trial.
- iii) The applicant shall remain present before the trial Court on each date unless exempted by the Sessions Court.
- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
- v) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.
- vi) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case.

vii) Considering the antecedents of applicant, the applicant shall not enter the area of Panchvati police station till the conclusion of the trial.

6. The bail application stands disposed of in above terms.
No costs.

(AMIT BORKAR, J.)