

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

BAIL APPLICATION NO. 2043 OF 2023

Nagesh Balaram Dukre	...Applicant
vs.	
The State of Maharashtra	...Respondent

Ms. Saili N. Dhuru - Advocate for the Applicant
Mr. S. R. Agarkar - APP for the Respondent-State
PSI Pawar – Shahapur Police Station

CORAM : S. M. MODAK, J.

DATE : 25th JULY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP.
2. The present Applicant is charge-sheeted for committing murder of one Dilip Khupse in the intervening night of 21/08/2022 and 22/08/2022 at village Andad, Taluka Shahapur. The first informant-Dinesh Khupse had damaged the Bolero car of one Kailash Shelke on account of which accused-Kailash Shelke and accused Kaluram Baswant has inspected the tempo. It was noticed by the first informant-Dinesh and hence he and the deceased-Dilip Khupse came out of the house. As a result, they ran away on the motor cycle.

3. The first informant and the deceased followed them up to the house of the Police Patil Baliram Mirkute. Accused-Kailash and accused Kaluram Baswant were possessing certain weapons. They assaulted Dilip Khupse and they were instrumental for causing injuries which ultimately resulted into his death. They were accompanied with other accused persons. Admittedly, the present Applicant is not named in the F.I.R.

4. Smt. Kalpana Khupse, who is mother of the first informant-Dinesh has named the present Applicant in her statement dated 28/08/2022 at page no. 142 which was recorded after seven days. When she alongwith her daughter and one more female relatives had gone to the house of the Police Patil Baliram Mirkute in the intervening night of 21/08/2022 and 22/08/2022, the Police Patil Baliram Mirkute came out of the house and tried to convince the party headed by Kailash Shelke on one hand and party headed by Dinesh Khupse on the other hand. At that juncture, several accused persons were present and one of them is the present Applicant-Nagesh. Except his presence no other role is alleged against him.

5. As said above, the first informant has not named the

present Applicant, so also the statements of other female members are on the same line. So also Police Patil Baliram Mirkute has given a statement on 28/08/2022 has even not taken the name of the present applicant (page no. 140)

6. This Court has granted bail to co-accused Ganesh Jagdish More, as per Order dated 23/06/2022, passed in Bail Application No. 571 of 2023. There is counter F.I.R. filed by Yogesh Chavan with the same Police Station at C.R. No. 371 of 2022. It is recorded on 18/09/2022. However the incident happened in between the intervening night of 21/08/2022 and 22/08/2022. The first informant Yogesh Chavan was undergoing the treatment and he was not in a position to talk.

7. Considering the above circumstances, the Applicant deserves to be released on bail. Hence following Order :-

ORDER

- (i) Bail application is allowed.
- (ii) Applicant-Nagesh Balaram Dukre arrested in connection with C.R. No. 348 of 2022 registered with Shahapur Police Station, Thane for the offence punishable under Sections 302, 307, 324, 323, 341, 143, 144, 148, 149 of the Indian Penal Code and

under Sections 37(1)(3), 135 of the Maharashtra Police Act, be released on bail on furnishing Personal bond and surety bond in sum of Rs. 25,000/-.

- (iii) Applicant shall not threaten the prosecution witnesses.
- (iv) The Applicant shall regularly attend the proceedings before the trial Court.
- (v) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail after notice.

8. It is made clear that these are my *prima facie* observations.

9. Application is disposed of in the aforesaid terms.

10. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]