



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

925 BAIL APPLICATION NO. 22 OF 2024

GAJANAN @ GAJJU S/O SHANKAR KARHALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Madhav K. Jadhav.
APP for Respondent/State : Mrs. Pratibha J. Bharad.
...

CORAM : **SANJAY A. DESHMUKH, J.**
DATE : 25th January, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.0503 of 2023, registered with Kaij Police Station, District Beed, for the offences punishable under Sections 302, 201, 212, 120-B, 370, 506 read with 34 of the Indian Penal Code.

3 It is averred in the report that the applicant was having love affair with the deceased, daughter of informant, who used to go to *Kala Kendra* as she was a dancing girl. The applicant insisted her to stay with him alone, to which she refused. Therefore, the applicant pressed her mouth and nose and assaulted on her neck with *Tocha* (article used for tagging the papers).

4 The learned counsel for applicant submitted that three co-accused are released on bail and out of them two are released on anticipatory bail. There is delay of 2 and ½ months for lodging the report. The postmortem was not conducted. There is no *prima-facie* evidence of motive. The applicant is behind the bars since 12th September, 2023. The applicant has roots in the society. He will not flee away from the trial. It is lastly prayed to allow the application.

5 The learned APP for the State strongly opposed the application and pointed out the statements of witnesses as to how the delay was caused for lodging the report. It is also pointed out that the applicant ran away from the spot of incident. The other co-accused insisted the informant and her relatives not to lodge the report and not to conduct the postmortem and therefore, the last rituals of the deceased performed. The delay is properly explained and the circumstantial evidence against the applicant is strong, which establishes his conduct as contemplated under Section 8 of the Indian Evidence Act. The learned APP further pointed out that the weapon *Tocha* used for assaulting the deceased is also seized under Section 27 of the Indian Evidence Act. There is *prima-facie* material against the applicant and the offence is serious. It is lastly prayed to reject the application.

6 Perused the charge-sheet. The statement of the informant is recorded under Section 164 of the Code of Criminal Procedure, in which she has explained that co-accused Shamim threatened her that she may be prosecuted and she has to remain behind the bars for years together for the said offence. Therefore, there was delay for lodging the report. The statements of witnesses show that the applicant ran away from the spot when the dead body of the deceased was taken out from the room. No doubt, the informant and other witnesses noticed injuries sustained to the deceased (anterior neck of the deceased and pressing out her nose etc.), however, considering the fact that there is delay caused for lodging the report, postmortem was not conducted and fact that other accused are also released on bail, the application deserves to be allowed. Further, the applicant has roots in the society and he will not flee away from the trial. The trial will take long period. All the co-accused are released on bail. Considering all these aspects, the application deserves to be allowed on some stringent conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.0503 of 2023, registered with Kaij Police Station, District Beed, for the offences punishable under Sections 302, 201, 212, 120-B, 370, 506 read

with 34 of the Indian Penal Code be released on bail on furnishing personal bond of Rs.1,00,000/- (Rupees One Lakh Only) with surety of the like amount on following conditions:-

- a) The applicant shall not pressurize the prosecution witnesses.
- b) The applicant shall not tamper with the prosecution evidence, in any manner.
- c) The applicant shall not enter into the entire Parbhani and Beed districts till the decision of the trial, except the dates fixed for hearing.
- d) The applicant shall not contact with any of the witnesses of this case.

7 It is clarified that if the applicant commits breach of any of the above conditions, then the investigating officer or the prosecution are at liberty to proceed against the applicant, to file application for cancellation of bail before the Trial Court. If such an application is preferred, the Trial Court shall decide the same on its own merits without further reference to this Court.

[SANJAY A. DESHMUKH, J.]