



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

915 BAIL APPLICATION NO. 60 OF 2024

Shivram Maruti Shinde,
age 55 yrs, Occ. Agril,
R/o Arangeon Dhumala,
Tq. Shrigonda, Dist. Ahmednagar. Applicant.

VERSUS

The State Of Maharashtra,
Through the police Inspector,
Belwandi Police Station,
Belwandi, Tq. Shrigonda,
Dist. Ahmednagar. Respondent.

...

Advocate for Applicant : Mr. Shermale K. N.

APP for Respondent : Mr. P.S. Patil

Advocate for Assist to APP : Mr. D.R. Adhav

...

CORAM : S. G. CHAPALGAONKAR, J.

Reserved on : 19th January, 2024.

Decidedon : 23rd January, 2024.

ORDER :-

1. The applicant seeks regular bail in connection with Crime No.478 of 2023 (Sessions Case No.148 of 2020) registered with Belwandi police station, District Ahmednagar, for the offences punishable under section 302 of the Indian Penal Code.

2. Investigation was set in motion on the basis of the information given by Mukinda Ganpat Shinde, alleging that he resides at village Arangaon alongwith his father Ganpat,

mother Gopika, brother Sambhaji, his wife Mirabai and children. There is dispute on account of road between his father and applicant Shivram Shinde. On account of such dispute, applicant-accused Shivram had assaulted Sambhaji, however, dispute was pacified. The proceeding was pending with Tahsildar, Shrigonda for grant of road. The inspection was carried by Tahsildar on 13.9.2023. At that time, accused refused to grant any access from his boundary and abused Ganpat and apprehended him of dire consequences.

3. It is further alleged that on 25.9.2023 at about 4 pm, Ganpat i.e. father of the informant was grazing the cattle near field of Shyamrao Shinde. At that time, accused/applicant Shivram hit Ganpat by stone. Ganpat was ailing. The informant, who was upon the hill rushed towards his father. By that time, Shivram flee away. Informant noticed that his father had suffered bleeding injuries on the head and he was not even responding. Informant immediately told the incident to Sanjay Shinde, who called brother of the informant. On the basis of the aforesaid information, crime no.478 of 2023 came to be registered with police station Belwandi. The applicant came to be arrested on same day i.e. on 26.9.2023. Since then, he is behind the bar. Investigation progressed. Charge-sheet came to be filed. The applicant moved Sessions Court for grant of bail. However, learned Sessions Judge rejected his application.

4. Mr. Shermale, learned advocate appearing for the applicant would submit that applicant has been falsely implicated in the aforesaid crime on account of previous

dispute. Looking to the nature of the injuries sustained by the deceased, possibility of accidental fall cannot be ruled out. There is no recovery of incriminating articles like blood stained clothes from the spot or from the applicant. The deceased was aged about 79 years. Therefore, his death is possible by accidental fall. Except statement of first informant, who is interested witness, there is no other incriminating evidence against the applicant. There is delay in lodging the FIR.

5. Learned A.P.P. strongly opposes the prayer.

6. Mr. Adhav, learned advocate appearing for the complainant supports the arguments advanced on behalf of the learned APP.

7. Having considered the submissions advanced, it is apparent that incident took place on 25.9.2023 at about 4 pm and it has been reported at 00.18 hours to the police station on 26.9.2023. Contents of the FIR clearly attributes allegations against the applicant that he was holding stone in his hand and hit the deceased. Postmortem report as well as injury certificate suggests that deceased had suffered two rib fractures and head injury. The cause of death is shown as B/L Lung injury due to physical assault. Statement of one Rohidas Adhav shows that applicant had made confessional statement before him admitting that he had assaulted Ganpat on account of previous dispute. However, said statement is belatedly recorded on 5.10.2023. It may not bear much weightage. Even by keeping aside the aforesaid statement, there is no reason to discard averments in the FIR itself which are coming from the

eye witness i.e. Mukinda s/o Ganpat Shinde. Apparently, there was previous dispute on account of right of way. Inspection was carried by the competent authority at the instance of the deceased and accused was enraged by such action. Prima facie, evidence on record is sufficient to bring home complicity of the applicant in commission of offence.

8. It is informed by the learned APP that charge is framed and witness summons are issued. In that view of the matter, at this stage, no case is made out for grant of bail. However, if the trial is not concluded within a period of one (1) year from the date of this order, the applicant shall be at liberty move afresh for grant of bail. Needless to state that the observations made above are based on prima facie consideration of the material in the charge-sheet and restricted for disposal of this application. Hence, the following order.

O R D E R

. Bail Application is hereby rejected.

(S.G. CHAPALGAONKAR)
JUDGE.

...

aaa..