



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

905 BAIL APPLICATION NO. 101 OF 2024

Monasi Dualya Valvi

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. G.D. Jain

APP for Respondent : Mr. N.S.Tekale

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CORAM : S. G. CHAPALGAONKAR, J.

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Reserved on : February 06, 2024

Pronounced on : February 08, 2024

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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.0199 of 2023 registered with Dhadgaon police station, District Nandurbar for the offenses punishable under section 302 of the Indian Penal Code.

2. Investigation has been set in motion on the basis of the information given by one Dhirsingh Barya Tadavi. He alleges that on 19.8.2023 his brother Bapu and Bapu's wife Baldibai had been to village Asthambha. On 24.8.2023 Baldibai returned home at Borkipada. When informant asked her about brother Bapu, she told that her cousin Janya Khodya Vasave offered lift on motorcycle, but Bapu alighted from his motorcycle and did not accompany them to Asthambha. It is further alleged that Bapu was missing from 19.8.2023. Search was taken for Bapu by all family members at palaces of relatives. On 25.8.2023, during search, sister of the informant

namely Sitabai and others found dead body of Bapu in Hakdivat Channel. His head and legs were separated from the body. Accordingly, it is alleged that unknown person has committed murder of Bapu. During course of the investigation, applicant came to be arrested on 28.8.2023. After completing investigation, charge-sheet came to be filed against him in RCC No.93 of 2023. Prayer for grant of bail by the applicant came to be rejected vide order dated 22.12.2023. Hence, this application.

3. Mr. G.D. Jain, learned advocate appearing for the applicant submits that the FIR was filed against unknown culprit. Applicant has been arrested on suspicion. Case of the prosecution is based on circumstantial evidence. However, material in the charge-sheet is insufficient to bring home guilt against applicant. He would therefore submit that the applicant be released on bail.

4. Learned A.P.P., however, strongly opposed the prayer. He would submit that it is a case of brutal murder. Dead body was found in the hilly area in decomposed state. The applicant/accused had strong motive to cause murder of Bapu since four years prior to the date of incident, Bapus daughter had engagement with the accused. Subsequently, Bapu refused to marry his daughter with the accused. At that time accused had apprehended the Bapu. It is further submitted that during investigation, an Axe has been recovered as per disclosure statement under discovery panchnama from

the accused. As such, there is sufficient evidence to show involvement of the applicant in commission of the offence.

5. Having considered the submissions advanced, apparently, alleged motive with accused for commission of offence was engagement of daughter of deceased with accused and subsequent discord leading to cancellation of marriage. The so-called incident of engagement is more than four years old. Prima facie, it cannot be considered as strong evidence of motive. Although, it is the case of brutal murder and use of axe in commission of offence can be gathered from the evidence on record, mere recovery of an axe at the instance of applicant-accused under section 27 of the Indian Evidence Act, itself cannot be considered as substantive piece of evidence to bring home guilt of the applicant in absence of further corroborative evidence.

6. It is trite that when the case is based on circumstantial evidence, prosecution will have to establish the chain of circumstances that would lead to definite conclusion regarding guilt of the accused. In the present case, except so-called motive based on incident more than four years ago and so-called recovery of axe, there is no evidence to bring home guilt of the applicant. There is nothing to hold that Axe alleged to be recovered from applicant was the weapon of offence. Prima facie, it is difficult to hold that the evidence in the charge-sheet is sufficient to satisfy the requirement of law to establish the case based on circumstantial evidence. APP confirms that there are no criminal antecedents to discredit

applicant. In that view of the matter, the applicant need not be detained any more. Hence, case is made out for grant of bail. Hence, the following order.

ORDER

- i. Bail Application is hereby allowed.
- ii. The applicant - Monasi Dualya Valvi be released on bail in connection with Crime No.0199 of 2023 registered with Dhadgaon police station, District Nandurbar for the offence punishable under section 302 of the Indian Penal Code on his furnishing P.B.&S.B. of Rs.50,000/- (Rs.Fifty Thousand), on the following conditions :-
 - a] The applicant shall not tamper the prosecution evidence.
 - b] The applicant shall attend each and every effective date before the trial court.
 - c] The applicant shall not enter village Padlicha Borkipada, Tq. Dhadgaon till conclusion of the trial.
- iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

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AAA (f)