



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

87 BAIL APPLICATION NO. 108 OF 2024

SHARUK MUBARAK CHAUS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Satej S. Jadhav.
APP for Respondent/State : Mr. Mukesh K. Goyanka.
Advocate to assist PP : Mr. Ramchandra J. Nirmal.
...

CORAM : **SANJAY A. DESHMUKH, J.**
DATE : 26th February, 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.219 of 2023, registered with Nanalpeth Police Station, District Parbhani, for the offences punishable under Sections 302, 143, 147, 148, 149, 120-B and 201 of the Indian Penal Code.

3 It is averred by informant that Syed Sameer Ali Syed Jamshed Ali was his brother. Sameer Ali fled away with the wife of one Rama Talekar. Therefore, Rama Talekar was in the revenge mode. He hatched the conspiracy to eliminate Sameer Ali. On 16th June, 2023, accused Syed Asef made phone call to the brother of this

informant and told him to meet. Accordingly, they all gathered near to Swaraj Gym Marathwada High School and they hatched the conspiracy to eliminate Sameer Ali. Thereafter, they committed murder of the brother of this informant by assaulting him in the agricultural land of one Anshiram Chandane and made show that Sameer Ali sustained injury in the vehicular accident. They took him to the Civil Hospital, Parbhani and gave phone number of the informant to them. The police informed to the informant and then he went to the Civil Hospital, Parbhani. Thereafter, Sameer Ali was taken to Parvati Hospital, Parbhani. However, considering his critical position, they sent back him to the Civil Hospital, Parbhani, where he was examined and declared dead.

4 The learned counsel for applicant submitted that though the informant stated that this applicant was found sitting on the motorcycle with Syed Asef, he has clarified in his supplementary statement dated 28th June, 2023 the when he saw the CCTV footage, this applicant is not appearing in the said CCTV footage. Accordingly, his statement was recorded on 28th June, 2023. The learned counsel for applicant submitted that the applicant is falsely implicated in the crime. He was not present at the time of alleged incident. The learned counsel for applicant further submitted that considering the supplementary statement of the informant, there is no such *prima-facie*

evidence against this applicant to connect him with this crime. It is lastly prayed to allow the application.

5 The learned APP for the State and the learned counsel assisting the prosecution strongly opposed the application and pointed out the statement of witnesses recorded before the investigating officer and recorded under Section 164 of the Code of Criminal Procedure. It is contended that the name of this applicant is mentioned in the report. There is *prima-facie* evidence against this applicant. It is lastly prayed to reject the application.

6 Perused the charge-sheet, particularly, report and the supplementary statement of the informant. As stated above, the supplementary statement of the informant clarifies that the applicant was not pillion rider of the motorcycle as alleged by the informant in his report. This itself is *prima-facie* doubtful circumstance as to the involvement of this applicant in the crime. The applicant has no criminal antecedents. He has roots in the society. He will not flee away from the trial. The trial will take long period. Considering all these aspects, the application deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

I. The application is allowed.

- II. The applicant in connection with Crime No.219 of 2023, registered with Nanalpeth Police Station, District Parbhani, for the offences punishable under Sections 302, 143, 147, 148, 149, 120-B and 201 of the Indian Penal Code, be released on bail on furnishing personal bond of Rs.50,000/- with surety of the like amount on following conditions:-
- a) The applicant shall not pressurize the prosecution witnesses, in any manner.
 - b) The applicant shall not tamper with the prosecution evidence, in any manner.

[SANJAY A. DESHMUKH, J.]

nga