



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

991 BAIL APPLICATION NO. 211 OF 2024

Nagnath Shankar Katkar

..APPLICANT

-VERSUS-

The State of Maharashtra

..RESPONDENT

Advocate for Applicant : Ms. Salunke Sheetal Vilas
APP for Respondent/State : Mr. Mukesh K. Goyanka

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 7th MARCH, 2024.

PER COURT :-

1. The applicant is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicant has been arrested in connection with crime No. 285 of 2023 registered with Naldurg Police Station, Naldurg, Tq. Tuljapur, Dist. Osmanabad, for the offence punishable under Section 302 read with 34 of Indian Penal Code.

2. It is averred in the report that informant Santosh Katkar is cousin of deceased Amol. There is a dispute on account of land in Gat No.265, which was sold by the father of the applicant. Therefore, there was enmity between them. Shankar who sold that land was

trying to get the same back. Therefore, quarrel used to take place between them. The applicant made phone call to the informant on 29.06.2023 at about 7.00 a.m. that his brother Amol is lying dead near to cow shed in the agriculture land of Shankar Katkar. Informant went there and saw that Amol sustained various injuries. Therefore, the report was lodged against the applicant and other two, out of them, one is his father.

3. The learned advocate for the applicant submitted that Amol was addicted to liquor. On that day also, due to heavy drink, he could not maintain balance of his body. It is noticed by the witnesses. There is no direct evidence against this applicant. Only because of earlier enmity, the applicant and other co-accused are prosecuted. The applicant has no criminal antecedents. He has roots in the society. He will not flee away from the trial. Trial would take long period. It is lastly prayed to allow the application.

4. The learned APP for the respondent-State has strongly opposed the application and submitted that the applicant is involved in serious crime of murder. More than 25 injuries are found, which are mentioned in column no.17 of the postmortem report. Statements of the witnesses show that earlier to the incident, quarrel took place between this applicant and Amol. He lastly prayed to reject the application.

5. Perused the charge-sheet, particularly report and statements of the witnesses. This Court while allowing Bail Application No.1948 of 2023 by order dated 10.11.2023 granted bail to co-accused namely Sachin Ankush Katkar. There is admittedly no direct evidence to infer the involvement of this applicant or any other co-accused. Earlier enmity is always double edged weapon that can be used for false implication as well as commission of such crime. At this stage, without adverting to the merits of the case, considering the fact that the applicant has roots in the society, he will not flee away from the trial, trial will take long period and custody of the applicant is not required further and fact that earlier to the alleged incident, Amol was found in drunken condition, which was seen by two witnesses namely Satling Patil and Anil Bansode, the application deserves to be allowed on certain conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 285 of 2023 registered with Naldurg Police Station, Naldurg, Tq. Tuljapur, Dist. Osmanabad, for the offence punishable under Section 302 read with 34 of Indian Penal Code, be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence.

- b) The applicant shall not enter into village Lohgaon, Tq.Tuljapur, Dist.Osmanabad for next six months.

III. If any breach of above conditions are noticed by the trial Court, the trial Court is at liberty to proceed further to cancel the bail of this applicant without reference to this Court.

(SANJAY A. DESHMUKH, J.)

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