



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

BAIL APPLICATION NO. 225 OF 2024

VAIBHAV BABAN HUCHHE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Nilesh S. Ghanekar
APP for Respondent : Mr. S. M. Ganachari
Advocate for complainant/assist to APP : Mr. N. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 03-07-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the respondent/State and the learned counsel for the complainant.
2. The applicant seeks bail in C.R.No.894 of 2023 registered with Tophkhana Police Station, District Ahmednagar, for the offences punishable under Sections 302, 307, 504 read with Section 34 of the Indian Penal Code, Sections 4, 25 of the Arms Act and Sections 37(1)(3), 135 of the Maharashtra Police Act.
3. The prosecution has a case that the applicant and the deceased had two groups involved in the illegal gambling. They were rivals. Since the complaints were filed against co-accused and his group, the deceased has been killed. The incident happened at 1.00 a.m. Report itself shows that a care was taken

to have a evidence of the incident, if any, happened in future. Therefore, the deceased and his friends were sitting on such a spot, that should be captured in the C.C.T.V. The first information report does not disclose the applicant as assailant.

4. The learned counsel for the applicant submits that only evidence against the applicant is that he was noticed going towards one direction and coming from said direction back in the C.C.T.V. Except this, there is no evidence against him. However, the main assailant being relative, the applicant has been falsely implicated in the crime. No weapon has been recovered from him. Only on suspicion, he has been arraigned as an accused. Hence, he may be granted bail.

5. Learned A.P.P. for the respondent/State relying on the C.C.T.V. footage, as mentioned above, has vehemently argued that it is crystal clear evidence of proving the *Reiki* done by the applicant. The applicant is the leader of the group run by the rivals of deceased. He led the murder. Therefore, his conduct as noticed in the C.C.T.V. is sufficient evidence to link him with the crime.

6. In addition to his arguments, the learned counsel for the complainant submits that the explanation of the accused that coincidentally, he went through the same road to leave his employee at home late night, is incorrect. It was an odd hour incident. He was the conspirator. Relying on the case of **Eshar**

Singh v. State of A.P., 2004 AIR SCW 1665, he has vehemently argued that there would be no direct evidence of conspiracy. The acts of person are important. Since the applicant is the leader of the rival group, he played the active role as conspirator. Hence, he may not be granted bail.

7. The first information report reveals that there were two rival groups. In the first information report, the applicant was not named. If it was also not mentioned that the deceased and the other witnesses complained against the applicant. True it is, the applicant was noticed in the C.C.T.V. footage at the relevant time. However, it cannot be appreciated at this juncture to believe that it was a *Reiki* and the execution of conspiracy. The possibility of coincident may also not be ruled out. No weapon has been recovered from the applicant.

8. Considering the facts of the case and the material placed on record, the applicant deserves bail on certain conditions. Hence, the order :-

ORDER

- i) The application is allowed.
- ii) Applicant Vaibhav Baban Huchhe be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,

- (a) He shall not tamper with the prosecution witnesses.
- (b) He shall not meet the co-accused till the conclusion of trial.
- (c) He shall be asked to sit in the court hall on separate bench to avoid the contact with the co-accused.
- (d) He shall not enter Ahmednagar district for three months from the date of his release.

iii) Now-a-days, the social situation has been drastically changed and even after the lawyer's arguments, the interested persons want to address the Court again. During the course of passing of order, one person with folding hands before the Court was saying that he was brother of the deceased and wanted to say something. He was trying to reiterate the arguments advanced by his counsel.

(S. G. MEHARE)
JUDGE

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