



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 BAIL APPLICATION NO. 125 OF 2024

Shrikant Ramrao Pawar
VERSUS
The State of Maharashtra

...

WITH
BAIL APPLICATION NO. 226 OF 2024

1) Bhiku Uttam Pawar
2) Sahebrao Kanthiram Rathod
VERSUS
The State of Maharashtra

...

Advocate for Applicant : Mr. Prashant P. Giri
APP for Respondents: Mr. Satish A. Gaikwad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 22nd APRIL, 2024.

PER COURT :-

1. These are applications for granting bail under section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") in connection with crime No. 199 of 2023 registered with Umri police station, District Nanded for the offences punishable under Sections 302, 109 r.w. 34 of the I.P.C. Their applications with similar prayer below Exh. 5 and Exh.18, in Sessions Case No. 28 of 2023 came to be rejected by the learned Additional Sessions Judge, Bhokar, vide order dated 3.1.2024 and 16.1.2024, respectively.

2. It is averred in the report that wife of Vinayak Chavan was

having illicit relations with Avinash Shankar Chavan. Their illicit relations was continued for 10 to 15 years. On 25.6.2023 wife of Vinayak left the house with Avinash. They stayed at Narayanwadi in Telangana State for one month. They were searched out. They were beaten up. The applicants and other co-accused assaulted Avinash Chavan by sticks and water pipe on 26.7.2023. Thereafter, he was taken to the hospital at Nanded for medical treatment. He succumbed to the injuries on 30.7.2023. The post mortem was conducted and report was lodged on 31.7.2023.

3. Learned advocate for the applicants submitted that the applicants are falsely implicated in the crime. There was no such intention to kill Avinash. The applicants have roots in the society, they will not flee away from the trial, the trial will take a long period. Considering the role of the applicants and the fact that their custody is not necessary, it is lastly prayed to allow the applications.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that the applicants are involved in serious crime of murder for which the sentence of death or life imprisonment is likely to be awarded. Learned A.P.P. lastly prayed to reject the applications.

5. Perused the charge sheet, particularly the statements of witnesses and F.I.R. The post mortem report shows that 35 injuries

were on the person of deceased. There is no intention to kill Avinash, as Avinash died after four days of the incident of assault. Without advertent to the merits of the case and the fact that there are no criminal antecedents, the applicants will not flee away from the trial, the trial will take a long period, the applicants can be released on bail by imposing certain stringent conditions on the principle that bail is rule and jail is exception. Hence, the following order.

O R D E R

- I. Applications are allowed.
- II. The applicants in connection with crime No. 199 of 2023 registered with Umri police station, District Nanded for the offences punishable under Sections 302, 109 r.w. 34 of the I.P.C. be released on bail on furnishing personal bond of Rs.15,000/- each with one surety each of the like amount on following conditions:-
 - a) The applicants shall not tamper with the prosecution evidence and shall not pressurize the witnesses, in any manner.
 - b) The applicants shall not enter in village Karla Tanda Tq. Umri, district Nanded, till the conclusion of trial.
 - c) If any breach of the above conditions is noticed, the trial court is at liberty to cancel the bail of the applicants without reference to this court.

(SANJAY A. DESHMUKH, J.)

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