



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

906 BAIL APPLICATION NO. 311 OF 2024

Shivaji @ Shiva S/o. Prabhakar Mane.

... Applicant

Versus

The State of Maharashtra.

... Respondent

...

Mr. Rajendra S. Deshmukh, Senior Counsel, a/w Ms. Rakshanda Jaiswal i/b
Mr. Devang R. Deshmukh & Mr. Vishal Chavan, Advocates for Applicant.

Mrs. Pratibha J. Bharad, APP for Respondent/State.

...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 27th March, 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.222 of 2023, registered with Itwara Police Station, District Nanded, for the offences punishable under Section 302 read with 34 of the Indian Penal Code and under Sections 4/25 of the Arms Act.

3 It is averred in the report that the husband of the informant namely Kiran was having illicit relationship / love affairs with the daughter of wife's sister. Thereafter, he married the informant before

one year of the incident. On 17th July, 2023, her husband did not turn to the house. Therefore, she made phone call to him. Thereafter, at about 08:25 pm, she made call to one Avinash Nandane and asked him as to where her husband is. Avinash said that her husband is with him near the water tank. Avinash said her that her husband will come back. Thereafter, she awaited her husband, but he did not come. Therefore, she made phone call to her husband, but he did not respond. When she made phone call to Avinash Nandane, his phone was switched off. At about 09:00 pm, the informant alongwith her brother Maruti went to search her husband at Chaufala water tank. When she went near to the tin room, applicant – Shiva Mane and Avinash Nandane were seen while they were running having Khanjar / knife in their hands. She went into that room. Her husband was lying injured there. He was unconscious. There were various injuries on his body. She made hue and cry. Thereafter, some people and relatives gathered there. She told them that the applicant and Avinash Nandane assaulted her husband and ran away. Her husband was taken to the hospital at Vishnupuri, Nanded. The doctor examined and declared him dead. The report was accordingly, lodged.

4 The learned Senior Counsel for applicant submitted that though the informant has stated in the report that she saw the applicant and co-accused while running from that tin room, the said

fact is not supported by any evidence. He further pointed out the statements of witnesses and postmortem report. He submitted that charge-sheet is filed. The case is based on circumstantial evidence. The applicant has roots in the society. He will not flee away from the trial. It is lastly prayed to allow the application.

5 The learned APP for the State strongly opposed the application and submitted that the applicant is involved in serious crime. There is strong evidence against the applicant. The clothes of the applicant are seized. The weapons are also seized. The postmortem report shows that the husband of informant was assaulted by knife. The applicant has criminal antecedents. He is arrested in three crimes bearing Crime No.69 of 2013, Crime No.93 of 2014 and Crime No.106 of 2016 of similar nature of crime. It is lastly prayed to reject the application.

6 Perused the charge-sheet, particularly, the report and the statements of witnesses. It is a homicidal death. However, considering the peculiar set of facts of the case, without adverting to the merits of the case and that the applicant has roots in the society, he will not flee away from the trial as well as the trial will take long period, the application deserves to be allowed on certain stringent conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.222 of 2023, registered with Itwara Police Station, District Nanded, for the offences punishable under Section 302 read with 34 of the Indian Penal Code and under Sections 4/25 of the Arms Act, 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.
 - c) The applicant shall not enter into the entire Nanded city, till conclusion of trial, except the dates fixed for hearing of this case and other cases.
 - d) The applicant shall not particularly enter into Bhaveshwar Nagar, Panchshil Nagar, Nanded, even on the dates fixed for hearing of any criminal case, till conclusion of trial.
 - e) If any breach of the above conditions is 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.]