



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 BAIL APPLICATION NO. 320 OF 2024

Rushikesh @ Nilesh Chandrakant Thakur

VERSUS

The State of Maharashtra and another

Advocate for Applicant : Mr. S.B. Bhapkar h/f Mr. Vinod S. Patil
APP for Respondent No.1: Mr. Mukesh K. Goyanka
Advocate to assist the A.P.P. : Mr. B.S. Deshmukh

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 4th APRIL, 2024.

PER COURT :-

1. This is an application for granting bail under section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") in connection with crime No. 454 of 2023 registered with Bhusawal Bazarpeth police station, District Jalgaon for the offences punishable under Sections 302 of the I.P.C. and Section 37(1) and 135 of Maharashtra Police Act. His application with similar prayer bearing criminal bail application No. 26 of 2024 came to be rejected by the learned Additional Sessions Judge, Bhusawal, vide order dated 23.01.2024.

2. The informant averred in the report that his son Nikhil is usually quarreling with many peoples. He had committed some offences. He was not residing in the house. He was married with Bhagyashree who is sister of the applicant. It was a love marriage. Earlier to

marriage, the applicant, Nilesh and Nikhil were best friends. After the marriage, Nilesh was residing with this applicant for one year. Thereafter, a quarrel took place between them. Nikhil is having criminal antecedents. He was residing outside of the house because of fear of the police. His love affairs were developed with another woman. Therefore, he was not coming to the house. That fact was noticed by his wife Bhagyashree and therefore, quarrels used to take place between them. Nikhil used to beat Bhagyashree. He was not providing money to her. The applicant was convincing that he shall not maintain any relationship with another woman and not to harass his sister. There was threat that applicant will eliminate him. The informant felt that they both are friends and he might have said so out of anger and he neglected him. The informant received a phone call in the night of 2.9.2023 at about 4.00 a.m. from Harshal Kadam, the friend of Nikhil that Nikhil was sleeping on the water tank and Nilesh Thakur has committed his murder by knife. The informant went there and found that Nikhil was dead. The report was lodged. Statements of witnesses are recorded and charge sheet is filed.

3. Learned advocate for the applicant submitted that there is only one eye witness. However, though he assaulted by knife in the dark, it is highly impossible to recognize the knife. The eye witness cannot reach to the spot of incident at the relevant time. The witness Harshal Kadam was residing at Jalgaon. He had no occasion to come to Bhusawal at the time of alleged incident. The parents of the

applicant are depending upon him. The applicant has roots in the society. He will not flee away from trial, the trial will take a long period, the further custody of the applicant is not necessary. It is lastly prayed to allow the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and prayed for rejection of the application. Learned advocate to assist the A.P.P. strongly opposed the application and submitted that the applicant has criminal antecedents. He is involved in five criminal cases which are as under:-

Sr. No.	Police Station	F.I.R. No and sections
1	Bazar Peth, Bhusawal	F.I.R. No.111 of 2017, under Sections 435, 426, 34 of I.P.C.
2	Jalgaon city police station	F.I.R. No. 76 of 2019, 302, 307, 326, 34 of I.P.C.
3	Bazar Peth, Bhusawal	F.I.R. No. 518 of 2019, under Sections 307, 323, 504, 506, 109, 34 of I.P.C. and Section 142 of Maharashtra Police Act.
4	Bazar Peth, Bhusawal	149, 147, 143, 332, 353, 307, 504, 506, 21/466 of I.P.C. and section 3 of MCOC Act.
5	Bazar Peth, Bhusawal	F.I.R. No. 334 of 2022 under Sections 3/25 and 5/25 and 25(6)(7)(8) of Arms Act.

5. Learned A.P.P. submitted that the post mortem report shows that there are nine injuries sustained to the deceased. The knife is recovered at the instance of the applicant. There is prima facie strong evidence against the applicant. If the applicant is released on bail, he will certainly pressurize the prosecution witnesses and tamper the evidence. It is lastly prayed to reject the application.

6. Perused the charge sheet, particularly report and statements of eye witness. The P.M. report shows that there were nine injuries and the cause of death is multiple injuries by hemorrhagic shock. The report is promptly lodged. The statement of witness Harshal Kadam is a strong evidence against the applicant. The applicant has criminal antecedents and if he is released on bail, the possibility of commission of similar nature of crime on his part cannot be ruled out. Considering all these aspects, ratios and the guidelines laid down by the Hon'ble Supreme court in the cases of ***Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559*** and ***Shahzad Hasan Khan Vs. Ishtiaq Hasan Khan and another, (1987) 2 SCC 684*** and peculiar set of facts, the applicant is certainly not entitled for bail. Hence, the application deserves to be rejected. The application is therefore, rejected.

7. At this stage, the learned advocate for the applicant submitted that liberty be granted to the applicant to file an application for bail after receipt of C.A. report. The applicant is at liberty to file an application for bail before the trial court on the ground of change in circumstance if the C.A. report is received.

(SANJAY A. DESHMUKH, J.)