



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 BAIL APPLICATION NO. 590 OF 2024

Vilas Vaijanath Mundhe

..APPLICANT

-VERSUS-

The State of Maharashtra

..RESPONDENT

Advocate for Applicant : Mr. Murlidhar S. Karad

APP for Respondent/State : Mr.Satish A. Gaikwad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 18th APRIL, 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. 123 of 2023 registered with Police Station, Sonpeth, Tq. Sonpeth, Dist. Parbhani for the offences punishable under sections 302, 506 read with 34 of the Indian Penal Code and under section 4/25 of the Arms Act.

2. It is averred in the report by one Maya Devanand Ujgare that her father-in-law died before 15 years and she is residing with her husband. Her mother-in-law Vimalbai is residing with her paramount namely Pandit Londhe, resident of Parali Vaijnath, Dist. Beed. Her sister-in-law Mangal Vithal Gaikwad is residing separately

from her husband and since last 8 years, she is residing with the Babasaheb. Babasaheb used to doubt her character, therefore, Mangal left his house and she came to stay with her mother Vimalbai from 01.05.2023. Thereafter, Balu Mundhe came there and insisted Mangal to stay with him. He raised quarrel with her mother. She expelled him. That time, he threatened to eliminate her. On 15.05.2023, Babasaheb threatened Mangal that he will eliminate her mother by making phone call. On the same day in the evening, the informant was intimidated by Bhagyashree Ujagare that Vimalbai and her paramount Pandit Londhe are seriously assaulted. She immediately went there. Vimalbai was lying there having injuries to her neck, back, head and thumb of right hand. Blood was oozing. When she asked her as to who assaulted her, she pointed out the door of her house by the body language. Thereafter she fell down. When they went towards the door of room, she saw that Pandit Londhe was also lying injured having injuries to his head and hand. Thereafter the door was opened and she saw that Mangal Gaikwad was slept in the room. She awoken her and pointed out this incident. That time, she said that Babasaheb had threatened her mother that he will eliminate her. The report was lodged on the second day of the incident.

3. The learned advocate for the applicant submitted that

the case is based on circumstantial evidence. Extra judicial confession of Seema Kedare is recorded after six days of the incident that Balasaheb and this applicant went to her after the incident and made extra judicial confession before her that they have committed murder of Vimalbai and Pandit Londhe. She noticed one injury to his hand. The learned advocate for the applicant submitted that the main accused in this crime namely Babasaheb Mundhe was released on bail by this Court vide order dated 15th March, 2024 in Bail Application No.116 of 2024. Therefore, he submitted that the applicant be released on bail on the ground of parity. The learned advocate for the applicant submitted that the applicant is arrested on 21.06.2024. He has roots in the society. He will not flee away from the trial. The learned advocate for the applicant lastly prayed to allow the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and pointed out that it is a case of double murder. He further pointed out the postmortem report, which shows that these two persons are died by homicidal attack. He pointed out the statements of the witnesses particularly the witness Seema Kedare to whom the applicant made extra judicial confession after the incident within some hours. He therefore prayed to reject the application.

5. Perused the charge-sheet, particularly the report and statements of the witnesses as well as seizure panchanama and postmortem report. The case is based on circumstantial evidence. Extra judicial confession of Seema Kedare is not recorded immediately after the incident, but it is recorded on 6th day of the incident. So also the main accused in this crime namely Babasaheb Mundhe was released on bail by this Court vide order dated 15th March, 2024 in Bail Application No.116 of 2024. Accordingly, the present applicant is also entitled to be released on bail on the ground of parity. If all these aspects are considered, the applicant has made out a case for granting bail on the principle that 'bail is rule and jail is exception'. The applicant has roots in the society. He will not flee away from the trial. The trial will take long period. However, considering the possibility of pressurizing the witnesses and tampering the evidence particularly the evidence of daughter of late Vimalbai some stringent conditions can be imposed. The application, therefore, deserves to be allowed. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 123 of 2023 registered with Police Station, Sonpeth, Tq.Sonpeth, Dist. Parbhani for the offences punishable under sections 302, 506

read with 34 of the Indian Penal Code and under section 4/25 of the Arms Act 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 pressurizing the prosecution witnesses and tamper with the prosecution evidence in any manner.
- b) The applicant shall not enter in entire Sonpeth Tahsil, Dist. Parbhani till the conclusion of trial.

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

(SANJAY A. DESHMUKH, J.)

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