



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

BAIL APPLICATION NO. 595 OF 2024

SAGAR RAMHARI PADWAL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. V. D. Sapkal, Senior Advocate
instructed by Mr. Manoj D. Shinde
APP for Respondent/State : Mr. D. J. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 21-06-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant seeks bail in C.R.No.0178 of 2023 registered with Anandnagar Police Station, Taluka and District Osmanabad, for the offences punishable under Sections 302, 143, 147, 148 and 149 of the Indian Penal Code.
3. Learned senior counsel for the applicant has vehemently argued that initially, the first information report was registered against five accused. The first informant was not an eyewitness. During the course of the investigation, it was transpired that only two of the five accused were involved in the crime. Hence, the Investigating Officer submitted a report under Section 169 of the

Code of Criminal Procedure (for short, "**Cr.P.C.**"). He has vehemently argued that the statement of the witness, who was the pan shop owner where the incident happened, was not believable as he has given contradictory statements. Another eyewitness was also not believable for the reason that her presence on the spot of the incident was doubtful. The deceased was a habitual offender, having many enemies. The applicant/accused has been falsely involved in the case since he had a civil dispute over the land. He also had a political enmity. The witnesses are not natural.

4. Learned A.P.P. for the respondent submits that antecedents of the deceased do not give licence to anybody to kill him. He submits that the prime eyewitness i.e. owner of the pan shop, did not contradict his statement. There is a great possibility of winning over him. His statement is important. There is recovery of a sickle and the bullet (vehicle), which was seen on the spot of the incident by two eyewitnesses.

5. The presence of the owner of the betel nut shop where the incident happened cannot be doubted. He did not contradict his statements under Sections 161 and 164 of the Cr.P.C. He deposed before the learned Magistrate that he opens his shop at 6.00 to 7.00 a.m. and keeps it open till 9.30 p.m. So, it cannot be said that it is a contradiction or impeaching his credibility. The statements of

the eyewitness clearly show the role attributed to the applicant. The deceased was so mercilessly beaten that he died on the spot due to profound bleeding.

6. It is not a case that the said witness i.e. pan shop owner, does not know the applicant. Barely discharging some of the accused under Section 169 of the Cr.P.C. does not make the prosecution case weak, particularly because the first information report was lodged by the person who was not the eyewitness. The facts remain that the applicant was the prime accused, who assaulted the deceased with a sickle, which was recovered. The prosecution has strong *prima facie* evidence against the applicant. The antecedent to the discredit of the deceased is also not a ground to grant bail. The deceased was brutally killed. The offence is grievous. There is a great possibility of tampering with the prosecution witnesses. The safety of the witnesses is essential in this case. Therefore, it would not be safe to grant bail to the applicant.

7. For the above reasons, the application stands dismissed.

8. The findings are recorded for bail purposes only.

**(S. G. MEHARE)
JUDGE**