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

BAIL APPLICATION NO. 597 OF 2024

**BABLU @ BHURYA RAJERAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA.**

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Mr. S.G. Jadhavar, Advocate for applicant.
Mr. P.D. Patil, APP for respondent No.1.

CORAM : S.G. CHAPALGAONKAR, J.

DATE :- 19TH JULY, 2024.

ORDER :-

1. The applicant seeks regular bail in connection with Crime No. 93 of 2023 registered with Shiradhon Police Station, Dist. Osmanabad for the offences punishable under Sections 302, 364, 324, 323, 504, 506, 143, 147, 148, 149 of IPC.

2. The investigation was set in motion on the basis of information given by Ashabai Mahadeo Kale. She states that on 8.6.2023, she was at home alongwith her husband and family members. All of them were sitting on a platform in front of the house. Suddenly, accused Vikas Kale, Suraj Pawar, Gangaram Pawar, Bablu Pawar, Bappa @ Khajya Ramraje Pawar and other three persons, rushed towards her house in a Scorpio Jeep. After alighting from the vehicle, they caught hold of her husband, dragged him in the house. They barged into the room and assaulted her husband. Although she made attempt to rescue

him, accused persons continued to assault him by Kick and fist blows and then dragged him to the vehicle. The report of incident was given to police. Lateron, dead body of informant's husband was found near Mangrul Pati Bus Stop. Consequently, offence came to be registered against 6 named and three unnamed accused persons. The accused persons were arrested on 18th August, 2023. On completion of investigation, charge sheet came to be filed.

3. Mr. Jadhavar, learned advocate for the applicant submits that no specific role is attributed against the applicant in the FIR. The applicant is behind bars for more than one year. Trial is at nascent stage. Till this date there is no recovery of any incriminating article from the applicant during the course of trial. The contents of charge sheet are not sufficient to bring complicity of the applicant in commission of crime. Hence, he urges to release the applicant on bail.

6. Per contra, learned APP vehemently opposes the bail application. He would submit that contents of FIR unequivocally depict presence of the applicant alongwith co-accused. The dead body of deceased was thrown away after brutal attack. As many as 28 injuries were found on the dead body of deceased. The cause of death is attributable to "death due to multiple injuries".

7. Having considered the submissions advanced, it is apparent that petitioner's name is appearing in the FIR as one of the accused. However, perusal of charge sheet would show that the statement of witnesses are stereo type. It appears that deceased had a dispute with Vikas Kale i.e. accused NO.1. The applicant is alleged to have

accompanied him, however, no specific attributions are made against the applicant. Except the omnibus statement of the witnesses, no incriminating articles could be recovered from the applicant during the course of trial. Whether the applicant was member of unlawful assembly, whether he is personally or vicariously responsible for the injuries suffered by deceased and consequential death, are the questions to be answered during the course of trial.

7. However, on prima facie consideration of the material in charge sheet, it is difficult to draw a definite inference to bring home complicity of the applicant in commission of the offence. The applicant is behind bars for more than one year. The trial is at nascent stage and it may take its own course. At this stage, it would be apposite to refer to the judgment of the Supreme Court in the matter of ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and other Criminal Appeal No. 2787 of 2024, decided on 3.7.2024*** wherein, the Supreme Court has observed in para. No. 19 thus :-

“19. If the State or any prosecuting agency including court concerned has no wherewithal to provide or protect the fundamental right of an accused to have speedy trial as enshrined under Article 21 of the Constitution of India, then, the State or any other prosecuting agency should not oppose the plea for bail on the ground that crime committed is serious. Article 21 of the Constitution applies irrespective of nature of crime.”

The court has further observed that the object of bail is to secure attendance of the accused at trial and it is indisputable that bail is not to be withheld as a punishment.

9. Keeping in mind the aforesaid principles of law and the fact that trial is yet to commence and applicant has suffered incarceration for more than a year, a case is made out for grant of bail. Hence, the following order :-

: O R D E R :

[i] The application is allowed.

[ii] The applicant – Bablu @ Bhurya Rajerao Pawar, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (rupees fifty thousand) with one solvent surety of the like amount, in connection with crime No.93 of 2023 registered with Shiradhon Police Station, Dist. Osmanabad for the offences punishable under Sections 302, 364, 324, 323, 504, 506, 143, 147, 148, 149 of IPC, on the following conditions :-

[i] The applicant shall not tamper with the prosecution evidence,

[ii] The applicant shall not enter the village Mal-Karanja, Taluka Kallamb, Dist. Osmanabad till disposal of sessions trial.

[iii] The applicant shall not indulge in similar offences.

[iv] The application is accordingly disposed of.

**[S.G. CHAPALGAONKAR]
JUDGE**

grt/-