



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

971 ANTICIPATORY BAIL APPLICATION NO. 586 OF 2024

Bhagwan @ Bhagya Appa Bhim Gharbude

VERSUS

The State of Maharashtra and another

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Advocate for Applicant : Mr. Rajendra G. Hange

APP for Respondents: Ms. V.S. Chaudhari

Advocate to assist the A.P.P. : Shri R.S. Deshmukh, senior advocate
i/b Mr. D.R. Deshmukh

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CORAM : SHIVKUMAR DIGE, J.

DATED : 19th JUNE, 2024.

PER COURT :-

1. The applicant apprehends arrest in connection with FIR No.15 of 2024 registered with Talwada Police Station, District Beed, for the offence punishable under sections 302, 120-B r.w. 34 of the Indian Penal Code.

2. It is the prosecution's case that on 29.12.2023 kids of the first informant Amol Sukhdev Bhavle i.e. daughter Tanuja, aged 24 months and son Kishor, aged 13 months, are killed by co-accused Swati Bhavle by administering them rat killing poison. It is alleged that the applicant is main conspirator of the said offence, as in the year 2017, the informant had love relations with the daughter of sister-in-law of the applicant and there was dispute between them

and out of that dispute, the applicant in conspiracy with co-accused, instigated accused No.1 Sakhubai Bhavle to kill the kids of the first informant and he had assured her that he will pay Rs.4,00,000/- to her for the said act. The accused No.1 Sakhubai instigated to accused No.2 to do the said act. Accordingly she administered poison to two small kids and killed them.

3. It is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. In the F.I.R. no name of the applicant is mentioned though it is alleged that the confessional statement of accused No.2 is recorded in mobile. Learned counsel further submitted that the statements of the witnesses are recorded after six days of the incident. There is nothing on record to connect the applicant with the present crime. Hence he requested to allow the application.

4. It is the contention of the learned APP assisted by learned senior counsel Mr. R.S. Deshmukh, that the applicant is main conspirator of the said offence, as he instigated accused No.1 to kill the kids of the first informant and he assured accused No.1 that he will pay Rs.4,00,000/- for the said act. Accused No.1 Sakhubai instigated accused No.2 to commit the said crime. Accordingly, accused No.2 committed the said crime. Learned A.P.P. further

submitted that accused No.2 gave extra judicial confession and in her extra judicial confession, she has taken the name of the applicant, which shows involvement of the applicant in the crime. The applicant is influential person of said village. There was dispute between the applicant and complainant. On that ground the applicant has killed the kids of the complainant. The custodial interrogation of the applicant is required. Hence she requested to reject the application.

5. I have heard both the learned counsel. Perused the F.I.R. and the police papers produced on record. It is alleged in the F.I.R. that the confessional statement of accused No.2 Swati is recorded in mobile and on that basis F.I.R. is lodged. But in the F.I.R. name of the applicant is not mentioned. The police has recorded the statement of witness Ramesh Bhavle. He has stated before the police that on 26.12.2023, he had seen accused No.1 and applicant talking with each other and he had heard that the applicant was telling to accused No.1 to administer poison to the kids of the complainant. But this statement is recoded after four months of the incident. Though it is the prosecution's case that the applicant is main conspirator, but from the police papers produced on record, no materiel is produced against the applicant. Hence, custodial interrogation of the applicant is not required and I pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest of the applicant in connection with FIR No.15 of 2024 registered with Talwada Police Station, District Beed, for the offence punishable under sections 302, 120-B r.w. 34 of the Indian Penal Code, the applicant be released on executing personal bond in the sum of Rs.15,000/- with one surety of the like amount, on the following conditions :-
- (a) The applicant shall not enter in Georai taluka till recording of evidence of the complainant. Learned counsel for the applicant submitted that he will not file application for relaxation of this condition.
- (b) the applicant shall attend the concerned police station as and when required by the Investigating Officer and for attending the police station he can enter in Georai taluka.

(SHIVKUMAR DIGE, J.)

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