

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 696 OF 2024
WITH
CRIMINAL APPLICATION NO. 2001 OF 2024
IN BA/696/2024

Ravi Appasaheb Namde

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Ghanekar Nilesh S.

APP for Respondent/State : Mr. S.M. Ghanachari

Advocate for Complainant : Mr. N.B. Narwade

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CORAM : S.G. MEHARE, J.

DATED : JUNE 24, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. The applicant seeks bail in Crime No.894 of 2023 registered with Tophkhana Police Station, District Ahmednagar for the offence punishable under Sections 302, 307, 504, 120-B r/w 34 of the Indian Penal Code, Sections 4/25 of the Arms Act and Sections 37(1) (3) and 135 of the Maharashtra Police Act.
3. No doubt, a brutal murder was committed. The prosecution has a case that the applicant belongs to the group of the main assailant. The voice recording of the applicant with the main accused is the evidence of conspiracy. He was knowing well about the

intention of the main accused. He without any question accepted the directions of the main accused on phone, to hide the sword used in the crime. So far as Section 201 is concerned, since the main offence is punishable with the capital term, the applicant would be tried together as if he being the participant of the crime. In no case, Section 201 of the Indian Penal Code as argued by the learned counsel for the applicant would apply. It is also vehemently argued by the learned counsel for the complainant and the learned APP that the applicant was the member of the opposite group who was involved in the illegal gambling. Since it was a conspiracy set before the incident, the applicant has acted without any complaint on the directions of the main assailant and hide the sword used in the crime. The said sword has been recovered at his instance. These are the strong circumstances against him. Therefore, he does not deserve bail.

4. Learned counsel for the applicant would submit that except voice recording and the recovery of the weapon under Section 27 of the Indian Evidence Act, there is no evidence of alleged conspiracy against the applicant. He was not present on the spot. Whether he had knowledge of the incident is a matter of merit. Barely belonging to a group is not a sufficient material to believe that the applicant was the conspirator. From the material available, at the most, Section 201 of the Indian Penal Code would apply against him.

He is languishing in jail for sufficient time. His detention would serve no purpose.

5. In reply, learned APP and learned counsel for the complainant submits that it would be harmful to release the applicant as he is the member of the group led by the main accused. He may tamper with the prosecution witnesses.

6. Admittedly, except the telephonic conversation recording between the main accused and the applicant and disappearing the sword used in the crime, the prosecution has no material to believe at this juncture that he was the conspirator. What role actually he has played in constituting the conspiracy is a matter of merit. The Court has to examine the material before the Court. The cell phone and sword have already been recovered. Considering the role attributed to the applicant, it would be inappropriate to keep him behind bar. However to guard the apprehension of the prosecution, certain conditions may be imposed upon him. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Ravi Appasaheb Namde, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that;

(4)

- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) The applicant shall not enter Ahmednagar town for one year from the date of his release except for attending the trial.
- (iii) Criminal Application No.2001 of 2024 stands disposed of.

(S.G. MEHARE, J.)