



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 BAIL APPLICATION NO. 964 OF 2024
WITH
CRIMINAL APPLICATION NO. 2470 OF 2024
IN BA/964/2024

PRASHANT DASHRATH KSHIRSAGAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. N. S. Ghanekar h/f Mr. More
Abhijit S.

APP for Respondent-State : Ms. P. R. Bharaswadkar.
Advocate for Informant to assist APP : Mr. Kore G. J.

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CORAM : S. G. MEHARE, J.
DATE : 12.07.2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned APP for the respondent-State and learned counsel for the informant.

2. The applicant seeks bail in Crime No.10 of 2024, registered with Bhoom Police Station, District Osmanabad, for the offences punishable under Sections 302, 323, 143, 147, 148, 149, 504, 506 read with Section 34 of the IPC.

3. The prosecution case in brief is that the present applicant and the wife of the deceased had an extramarital

affair. The deceased was mercilessly beaten. The present applicant and the wife of the deceased were also there. They all killed the deceased.

4. Learned counsel for the applicant referred to the first information report, which was lodged by the relatives of the deceased on receiving information on the phone from the eyewitnesses. She did not mention the name of the applicant. Three days thereafter, for the first time, the eyewitnesses disclosed the name of the applicant, his presence on the spot, and his participation in the assault. It is also a vehement argument of the learned counsel for the applicant that only on the basis of the CDR, he has been falsely implicated in the crime. At first instance, his name was not coming forward. But, as soon as the reason was discovered, he was falsely implicated in the crime. He did not use the weapon. It was a dispute between the applicant's family and the deceased. There are no antecedents to his discredit. Hence, he may be granted bail.

5. Learned APP and learned counsel for the victim have vehemently argued that the wife of the deceased and the applicant were instrumental in the incident. The applicant was present on the spot of the incident. The CDR supports the allegations. The possibility of a mistake in not naming the

applicant in FIR cannot be ruled out. There are sufficient number of eyewitnesses who have categorically stated against the applicant and the role played by him. The prosecution has a positive case of raising suspicion over the wife of the deceased and the present applicant. A serious offence has been committed. There are great chances of tampering with the prosecution witnesses. The prosecution mainly relied on the CDR to corroborate the statement of the eyewitnesses.

6. Admittedly, the applicant was not named in the FIR. However, the law is clear that the FIR is not an encyclopedia of the incident. The statements of the witnesses were recorded after some days, but the initial source of information for the first informant was the eyewitness. The statements of the eyewitnesses reveal that the applicant has played an active role. His presence on the spot of the incident also corroborates the prosecution case that he was instrumental with the wife of the deceased in committing the crime. A person has been killed for no fault. Considering the gravity of the offence, the way in which the incident happened, and the role attributed to the applicant, the applicant does not deserve bail.

7. Hence, the bail application stands dismissed.

8. Criminal Application No.2470 of 2024 to assist APP stands disposed of accordingly.

(S. G. MEHARE, J.)

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vmk/-