



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

BAIL APPLICATION NO. 1092 OF 2024

ATAL @ ATIL ISHWAR BHOSALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Salman K. Pathan along with
Mr. Sanket Salunkhe
APP for Respondent : Mr. S. P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 04-09-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the State.
2. The applicant seeks bail in C.R.No.731 of 2020 registered with Karjat Police Station, District Ahmednagar, for the offences punishable under Section 306 read with Section 34 of the Indian Penal Code.
3. The applicant contends that after the incident his mother was suffering from unknown ailments. Hence, he took her to another place. However, he was arrested on 30.01.2024. He had applied for bail before chargesheet. It was rejected. Then he again filed the application for bail after chargesheet before the learned Additional Sessions Judge, Shrigonda. However, the learned Additional Sessions Judge erroneously held that after chargesheet the evidence of involvement of the applicant has

remained one and the same. Mere filing the chargesheet is no ground to release the applicant on bail. The applicant failed to show the change in the circumstances. The application was not considered on merit.

4. The learned counsel for the applicant submits that there was absolutely no evidence against the applicant. The deceased was his wife. They had a love marriage. She delivered a child, who was three years at the time of the incident. After consuming insecticide, his family members took her to the hospital. Nothing is recovered from him. The chargesheet was filed under Section 299 of the Code of Criminal Procedure. After his arrest on 30.01.2024, the detail interrogation was made with him. However, nothing new was found. There was nothing to believe that the applicant abetted the deceased to commit suicide. Her family members levelled the false allegations. No weapons were used in the crime.

5. He pointed out that the learned Additional Sessions Judge erroneously recorded the findings that extra judicial confession of deceased was recorded. However, there was no statement as such with the chargesheet.

6. The learned A.P.P. has opposed the application. He submits that there are many crimes against the applicant. If the bail is granted, the applicant would flee away. A *Prima facie* evidence is

against him. He was consistently harassing the deceased. He abetted to consume poison to end her life. The offence is serious. The applicant was instrumental to suicide of the deceased. Therefore, he may not be granted bail.

7. 'Bail is the rule and jail is exception' is the legal phrase in the criminal jurisprudence. The question is, whether detention based upon the allegations against him, would serve the purpose.

8. It is a case of suicide. The deceased was taken to the hospital by close relative of the applicant immediately after the incident. There was no case that the applicant was absconding since after the incident. The record does not disclose the statement of the deceased as to the cause of death. No weapon has been used in the crime. The other crimes were not identical.

9. The learned Additional Sessions Judge erred in observing that mere filing the chargesheet is no ground to release the applicant on bail and the applicant failed to show the change in the circumstances.

10. Before the chargesheet the applicant has no access to investigation papers. He gets the access to the investigation papers first time after filing the chargesheet. So, the applicant has more material to advance the arguments for bail.

11. After having gone through the papers, this Court opines that

the investigation has been done against the applicant. The Court is of the view that his detention would serve no purpose. However, certain conditions should be imposed to secure his presence in the trial. Hence, order:-

ORDER

- i) The application is allowed.
- ii) Applicant – Atal @ Atil Ishwar Bhosale be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He should not tamper with the prosecution witnesses.
 - (b) He should attend the police station twice in a month on the first and last Monday, between 11.00 a.m. and 01.00 p.m. till the trial is concluded.
 - (c) He should not leave his place of residence Belgaon, Taluka Karjat, District Ahmednagar, without prior permission of the trial Court till the conclusion of the trial.
 - (d) He should furnish his residential proof and cell phone numbers to the trial Court with an undertaking that he would not change it till the trial is concluded.

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