



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

BAIL APPLICATION NO. 1336 OF 2024

**SUNIL KISHORELAL SHARMA
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Swapnil S. Rathi
APP for Respondent : Ms. P. V. Diggikar
...

CORAM : S. G. MEHARE, J.

DATE : 09-08-2024

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.0273 of 2023 registered with Police Station Vazirabad, District Nanded, for the offences punishable under Sections 143, 147, 148, 149, 307, 302, 324, 326, 504, 506 of the Indian Penal Code.
3. The prosecution has a case that the deceased asked the applicant why the names of all the trustees have not been reflected on the banner of the trust. The applicant was the President of the Trust. He went to the house of the deceased and threatened him. The deceased came out. Then there was a quarrel. The applicant called two persons on phone. They arrived at the spot of the incident and then they started assaulting the deceased. He suffered serious injuries and died after some days.

4. The learned counsel for the applicant has vehemently argued that the eyewitnesses are not consistent. The different stories have been developed. At the first instance, there were no allegations of assault at the instance of the applicant. However, in subsequent statement, it was alleged that the applicant brought a spanner like rod from his house for assault. He also argued that his neighbour did not state that the applicant called the other co-accused. One of the neighbourers in fact is not an eyewitness. The applicant did not play active role. On the contrary, the applicant also suffered injuries due to assault by the deceased. The co-accused having serious role have been granted bail. Therefore, he may be granted bail.

5. The learned A.P.P. has strongly opposed the application. He submits that the applicant is instrumental of the incident. He was aggressive. He went to the house of the deceased and called him out and threatened him to teach a lesson. There was a quarrel between them. Then two persons were called. All of them assaulted the deceased. One of them caused head injury, due to which he died. The discrepancies in the statements of the witnesses may be explained in the trial. However, those are not fatal to the prosecution. Since the applicant was instrumental, he cannot seek bail on the ground that the co-accused who have played active role have been granted bail.

6. Perused the papers.

7. At the first instance, the eyewitness who was wife of the deceased stated that the applicant called a few people on phone, they came and assaulted the deceased. She has undoubtedly improved story of the role attributed to the applicant. However, the injured had suffered around 12 injuries.

8. The cumulative effect of the injuries resulted into death. The applicant was aggressive. He went to the house of the deceased and called him out. In the circumstances, it is crystal clear that he was instrumental to the incident. There may be danger to the life of the witnesses. The offence is serious and happened in front of the house of the deceased. The evidence against the applicant *prima facie* establish that the incident happened at his instance. For no reason one person lost the life.

9. For the above reasons, the Court is not inclined to grant bail. Hence, the order:-

ORDER

- i) The bail application stands dismissed.
- ii) The above observations are restricted to this bail application only.

(S. G. MEHARE, J.)