



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

955 BAIL APPLICATION NO. 1376 OF 2024 WITH
CRIMINAL APPLICATION NO. 3643 OF 2024
IN BA/1376/2024

Gundiram Haribhau BhosaleApplicant

VERSUS

The State of MaharashtraRespondents

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Mr. S. A. Jadhav, Advocate for Applicant.

Mrs. V. S. Choudhari, APP for the State.

CORAM : S. G. MEHARE, J.

DATE : 3rd SEPTEMBER, 2024.

PER COURT :

1. Learned counsel representing the victim is absent.

Hence, Criminal Application No. 3643/2024 stands dismissed.

2. Heard learned counsel for the Applicant and learned APP
for the State.

3. Applicant, the husband of the deceased seeks bail in
Crime No. 0245/2023 registered with Neknoor Police Station, District
Beed, for the offence punishable under Section 302 of Indian Penal
Code.

4. The son of the deceased lodged a report against the father that he had no good terms with his deceased mother. Therefore, the Applicant was residing separately in the field with his blind mother. His mother used to go to the cow shed in the field where Applicant was residing to bring milk. On the day of the incident she went there. However, she did not return. Hence, her daughter, who came for her delivery, made a phone call to her. However, she did not respond. Therefore, the first informant, son, went there. He found the fencing was locked. Therefore, he jumped inside and saw that his mother was lying dead in the cow shed and her brain was came out. He lodged report against his father.

5. Learned counsel for the Applicant would submit that at the relevant time the Applicant went to answer nature's call. When he returned he saw his wife was dead. Therefore, he directly went to the police station to lodge the report. The police recorded his confessional statement. Learned counsel for Applicant further argued that there are severe discrepancies in the investigation. Before the statement of Applicant under Section 27 of Indian Evidence Act was recorded, the spot was inspected and panchanama was drawn. However, at that time, a shirt allegedly recovered at his instance was not recovered. Therefore, recovery under Section 27 of Indian

Evidence Act raises a serious doubt. He also vehemently argued that the conduct of witness Mahendra is doubtful. The CDR reports have not been properly examined. Therefore, there are severe discrepancies in the allegations levelled against the Applicant. For the above reasons, he deserves bail.

6. Learned APP has strongly opposed the Application. She would argue that the mother who was allegedly residing with the Applicant was blind and she was residing separately from the cow shed. She would submit that the deceased could not get opportunity to shout. Therefore, it was not possible to the blind mother to hear the screaming. From the post incident conduct of the Applicant a sole inference that could be drawn is that he is a culprit. In ordinary course, the husband would not lock the fencing and go to the police station, when his family members was inside the house. In rural area, every resident know that the incident must be informed firstly to the police patil. The police had no reason to record his confessional statement. Whatever information the accused supplied under Section 27 of Indian Evidence Act, except recovery of weapon and other articles, is inadmissible in evidence. The Applicant admits that he was residing where the incident happened. The offence is serious. The witnesses are closely related. Therefore, there is every

possibility of tampering with the prosecution evidence. She, therefore, prays dismissal of the application.

7. It is the admitted facts that the relations between the deceased and the Applicant were not happy. He was residing separately. The son, who is complainant, has specifically alleged that the Applicant was suspecting her character. The strong circumstance against the Applicant is locking the fencing of spot of incident. Recovery of blood stained clothes is another circumstance to show that he was the person who was in exclusive possession of the place where the incident took place. Overall evidence collected against the Applicant with his conduct are sufficient to decline him bail. Hence, the application stands dismissed.

8. After passing order, learned counsel for the victim appeared. However, the Application was dismissed, as he did not argue for the victim. In his absence, the learned APP pointed all grounds which were supporting to the victim.

(S. G. MEHARE)
Judge