



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

BAIL APPLICATION NO. 1118 OF 2024

SUHAS MAROTRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. S. S. Thombre
APP for Respondent : Mr. S. B. Pulkundwar

...
WITH
CRIMINAL APPLICATION NO. 3237 OF 2024 IN BA/1118/2024

VISHAL UTTAMRAO SHINDE
VERSUS
SUHAS MAROTRAO SHINDE AND ANOTHER

...
Advocate for Applicant/victim : Mr. A. V. Patil Indrale

CORAM : S. G. MEHARE, J.

DATE : 21-08-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the respondent/State and the learned counsel for the victim.
2. The applicant seeks bail in C.R.No.0061 of 2023, registered with Police Station Mantha, Taluka Hadgaon, District Nanded, for the offences punishable under Sections 302, 120B, 324 and 201 of the Indian Penal Code.
3. The prosecution case, in brief, against the applicant was that

the deceased was the rival of the family of the accused. On the complaint of the deceased, they lost the School Management and the administrator was appointed. They also lost the APMC election due to the deceased. Since then, they had cross terms. As the applicant was demoted from the post of Headmaster on the complaint of the deceased, the applicant and the co-accused hatched a conspiracy and killed the deceased, pretending to be a vehicular accident.

4. The learned counsel for the applicant submits that there was no direct evidence against the applicant. The sole witness with the prosecution about the conspiracy is Pradip Sambhaji Chabharkar. He heard some angry expressions from the applicant's father on 25.06.2023. He read the statement of Pradip. This witness came forward after a month of the incident. There is no evidence against the applicant to believe that he was a member of the alleged conspiracy. Mere conversation with family members on the phone is not evidence of conspiracy. The applicant resides at Nanded. The incident happened at Mantha. The entire family has been roped in a false crime. He submits that he was trying for pre-arrest bail. However, he could not succeed. Lastly, the applicant was arrested. That does not mean he was absconding. There are no antecedents to his discredit. He is a teacher in a school. Only on suspicion he has been arraigned as an accused. Hence, he may be granted bail.

5. The learned A.P.P. submits that the applicant was a member of a conspiracy. He relied on the statement of Pradip and CDR reports and vehemently argued that the applicant had a grievance against the deceased because he was demoted on the complaint of the deceased. The family of the applicant was defeated in A.P.M.C. election due to the deceased. The specific witness, though he came forward late, stated the anger expressed by the father against the deceased and supported the assertion of one of the sons to teach a lesson to the deceased. The applicant had threatened the son of one of the witnesses on a *WhatsApp* call from his friend. The report was lodged, and the police have registered the crime. Even after the Hon'ble Supreme Court rejected his SLP, he did not surrender. He ought to have surrendered before the police. However, the Police arrested him. The offence is serious. Hence, he does not deserve bail.

6. The learned counsel for the victim has vehemently argued that it was preplanned cold-blooded murder. The applicant had a serious grievance against the deceased that on the complaint of the deceased the administrator was appointed in the School, and his family lost the A.P.M.C. election. One of the witnesses was also assaulted. He adopted the arguments of the learned A.P.P. about the conduct of the applicant. He prayed to dismiss the application.

7. The prosecution has a case that the applicant was a member

of a conspiracy, and the sole evidence against him is of witness Pradip. Both sides read his statement. His statement shows that the father was telling to his son that due to the acts of the deceased, they have been pulled down. His statement reveals that two sons of Marotrao Shinde i.e. Amol and Sandip were present when their father was expressing anger against the deceased. His statement was silent about the presence of the applicant. One son, Amol, responded to the angry expression of his father. Therefore, at this juncture, it is not clear that the applicant was a member of the conspiracy allegedly hatched on 26.05.2023.

8. As far as communication on mobile phones is concerned, it routinely happens in most families. So, it cannot be said that the applicant was a member of the conspiracy. As far as threatening a son of one of the witnesses is concerned, the police are making investigation. Every accused has a right to protect his arrest, for protecting his arrest, he may exercise the legal remedy of anticipatory bail. Spending time seeking anticipatory bail may not be a ground to consider that the accused avoided facing the investigation. The Court specifically asked the counsel for the victim whether the Hon'ble Supreme Court, while rejecting anticipatory bail application, directed the applicant to surrender. He fairly stated that there were no such directions. In the circumstances, he cannot be blamed for not surrendering *suo-moto* before the police.

9. The discussion made above leads this Court to arrive at a conclusion that the sole evidence of a conspiracy, Mr Pradip is silent about the presence of the applicant when he heard the angry expression of his father. It was a solitary incident noticed by Pradip. The circumstances are favourable to the applicant for bail. Hence, the order:-

ORDER

- i) The application is allowed.
- ii) Applicant – Suhas Marotrao Shinde 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 not enter village Mantha except to attend the school only
 - (c) He should attend the trial on each and every date;
- iii) Criminal Application No.3237 of 2024 is allowed and disposed of.

(S. G. MEHARE)
JUDGE