

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1703 OF 2024

Avinash Rajendra Rathod

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. Prashant Giri h/f Mr. Swami Sandeep C
APP for Respondent/State : Mr. S.B. Pulkundwar

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CORAM : S.G. MEHARE, J.

DATED : OCTOBER 22, 2024

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant seeks bail in Crime No.100 of 2024 registered with Bhada Police Station, District Latur for the offences punishable under Sections 302, 143, 147, 148, 149, 323, 504, 34 of the Indian Penal Code.
3. The incident happened during the marriage. There was quarrel of the deceased and others with co-accused Rajendra Rathod. The incident happened in the courtyard of co-accused Rajendra Rathod. It has been alleged against the applicant that he assaulted the deceased with iron rod on his head. So, he fell down. Thereafter, the other co-accused beat him. It has been further alleged against him that due to the acts of the applicant, the deceased died of the head injury.

4. The applicant has a case that all the members from the deceased side had consumed liquor. They were quarreling with co-accused Rajendra Rathod. Hence, he went there. He also suffered the injury in that quarrel. He did not assault the deceased with so-called iron rod. The iron rod recovered at his instance was without blood stain. Since the deceased had consumed the liquor, he fell down in the quarrel and sustained the injury due to stones lying on the spot of the incident.

5. Learned counsel for the applicant referred to the spot panchnama to support his contention. He would submit that since it was a untimely death, his family members falsely stated against the applicant. In such a situation, if witnesses are relatives, the circumstances would prevail. Hence, the applicant deserves bail.

6. Learned APP opposed the application. He would submit that the medical evidence supports the allegations levelled against the applicant. There were eyewitnesses to the incident. If the case of the applicant is accepted that he also suffered the injury it proves his presence on the spot of the incident. The recovery of iron rod at his instance corroborates the allegations.

7. The prosecution has a case that after the assault, the deceased fell down. Hence, blood was found on the spot of the incident on the land as well as stones. Therefore, it cannot be said

that it is an accidental death. The offence is serious. Hence, he may not be granted bail.

8. Considering the facts of the case, both probabilities are there either the deceased was assaulted or fell down on the stone. At this juncture, the Court has to consider the prima facie material. The post-mortem report reveals the abnormal smell in the stomach of the deceased. That corroborates the submission of the counsel for the applicant that the deceased had consumed the liquor. It was a quarrel happened in the courtyard of co-accused Rajendra. They are Banjaras. They were there for the marriage. Considering the custom of Banjara, consuming liquor on the day of marriage is common. The spot panchnama supports the contention of the applicant to believe at this juncture that the deceased might have fallen on the stone and sustained the injury. The injury suffered to the deceased is possible by falling on hard surface. Since the case is balancing, further detention of the applicant would serve no purpose, though there are eyewitnesses and recovery of weapon at the hands of the applicant. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Avinash Rajendra Rathod, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty

(4)

Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that ;

(a) The applicant should not tamper with the prosecution witnesses and should attend the trial on each and every date.

(S.G. MEHARE, J.)