

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1904 OF 2024

Raju Bhagwat Suryawanshi

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. S.S. Deshmukh h/f Mr. Atul Madhav
Pawar

PP. for Respondent/State : Mr. A.B. Girase

Advocate for Complainant/Victim : Mr. V.D. Sapkal, Senior Counsel
i/b S.R. Sapkal a/w Mr. R.N. Patil

WITH

CRIMINAL APPLICATION NO. 4448 OF 2024
IN BA/1904/2024

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CORAM : S.G. MEHARE, J.

DATED : OCTOBER 25, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned Government Pleader for the State and learned counsel for the victim.
2. The applicant seeks bail in Crime No.118 of 2024 registered with Bhusawal City Police Station, District Jalgaon for the offences punishable under Sections 302, 143, 147, 148, 149, 120-B of the Indian Penal Code, Sections 3/25, 27 and 7/25 of the Arms Act and Section 135 of the Maharashtra Police Act.
3. Admittedly, the applicant was not the participant in the actual assault. Two lives were claimed in this crime. The firearms were used. There were 29 rounds. The bullets were removed from

the body of both deceased. The record reveals that the quarrel took place due to the water tanks taken from the ward of the deceased. So far as the allegations against the applicant that he was the conspirator, there are witnesses to support the allegations of conspiracy. The witnesses have specifically stated that few days before the incident, the actual assailants and others had been to the house of the applicant and they were asked to wait outside. Some of the witnesses were threatened that they should not accompany deceased Santosh. Pursuant to the statements of the witnesses, the applicant has been arrested in the crime being the conspirator.

4. Learned counsel for the applicant has vehemently argued that the applicant was the Corporator. So, many persons used to come to his house. He being the social worker has to render the services to the residents of the town. Barely visiting the co-accused to his home without the evidence the conspirators hearing the conspiracy, these witnesses could not be believed. These witnesses have instructions to utter the name of the applicant in their statement. In the statement of the witnesses, they were saying that the applicant is their boss. One of the accused was calling him Appa. His said nick name was not known to the witness until he went to his house with him. Learned counsel for the applicant would submit that there was no prehistory to connect the applicant with such a serious crime. He being a politician, has deliberately indulged in the crime

when the assembly election is declared. It is a political conspiracy against the applicant to refrain him from his constitutional right to contest the election or participate in the coming assembly elections. As far as the crimes registered against him, out of 30 crimes brought to the notice of the Court by the learned Government Pleader and learned counsel for the victim, in most of the cases the applicant was acquitted. Presently, only seven cases are pending. Those are also false cases having no involvement of the applicant. Social workers are mostly implicated in the crime out of political rivalry. Except the statements of the witnesses and the accused that applicant is their boss, there was no evidence to establish the *prima facie* nexus of the applicant with the present crime. He would argue that the politicians are using the common man for their benefit and the same thing happened in this case by creating the false evidence against the applicant. The statement of the co-accused would not bind the applicant. It can only be a source of information or a clue for the investigating officer to investigate the truth. The investigating officer except the words as mentioned above, could not collect the evidence and *prima facie* establish the nexus of the applicant with the present crime. Shortage of water is a burning issue in the country. People fight and go to any extent for water. People might have a feeling that the deceased was providing tankers only to the persons of his ward. Whether the applicant had connection with such crime is a matter of

appreciation of evidence during the trial. Considering the record as a whole, there is no strong *prima facie* evidence to link the applicant with the crime. Barely, the crimes against the accused is no ground to refuse bail. The law is settled that the Court should see the role attributed to the applicant in the crime in which he is claiming bail. It is very easy to involve a person in any crime. Hence, they are believed to be innocent till they are convicted. He also added that in one of the cases of murder, he was convicted. However, the High Court converted the offence of murder under Section 302 into Section 304 of the Indian Penal Code. Against the order of the High Court, Special Leave Petition has been preferred before the Hon'ble Supreme Court and it was admitted. Substantive sentence imposed in that case has been suspended. Though the arguments advanced by both opponents counsel that the applicant has no good character, but his acquittal in large number of cases should be considered and that should not be considered as a ground to reject bail. He prayed that bail may be allowed.

5. Learned Public Prosecutor submits that there was previous enmity. He read the statements of the witnesses who had uttered the words that the applicant is their boss. The statements of the witnesses and uttering words by the co-accused were natural. They were neither false or concocted. The applicant has no positive social image. Under the garb of the crime, he is relying over the

common man. The common man could not dare to go against such anti-social elements. Though the applicant has been acquitted in most of the crimes, his character could not be free from stigma. Such an offence registered against the applicant shows his conduct and the interest in the crimes. He does such type of crimes to create terror in the locality and to keep his political life alive. Still few serious cases are pending against him. He is already convicted. So, these facts should be considered while deciding the bail application. He also argued that the incident happened in the daylight. Such brutal murders creates the terror in the locality and deprive the common man from enjoying their free and liberal life which is indirectly an attack on the democratic liberty. Such persons, in fact, should be eliminated from the election process atleast to live a peaceful and secured the life to the common man. He also argued that the entire material collected against him *prima facie* is sufficient to link him with the crime. There is a direct evidence of conspiracy. There was a political rivalry. The applicant does not want to have a person who may over power him. In sum and substance, he would submit that his back history of involvement in various body offences and arm offences is a ground to refuse him bail, particularly in the election period. Referring to the papers, he would submit that the applicant is the main conspirator. He also argued that the applicant has misused the liberty granted to him by the Court by allowing him bail. So, there is

great possibility of violating the bail conditions and he may spread the terror in the vicinity. For all these grounds, he should not be granted bail.

6. Learned senior counsel Mr. Sapkal for the victim has adopted most of the arguments advanced by the learned Public Prosecutor. However, he would argue that bad character of the applicant should be borne in mind while considering the bail application. It was a brutal murder committed in daylight. The assailants had no enmity with the deceased. They were puppet at the hands of the applicant. Hence, in natural course, they were uttering that the applicant is their boss. He would submit that the material placed on record is sufficient to establish his nexus with such a serious crime. He also referred to the post-mortem report to point out the nature of the injuries caused to the deceased. Committing the crime with firearms is presumed to be a predetermined crime. Hence, he should not be granted bail. After considering the arguments advanced by each counsel, those are related to the social health of the country. However, the Court could not go beyond the record and the material against the applicant should be considered and tested against the anvil of law. The applicant has been arrested as a main conspirator in the crime. However, the witnesses who have deposed that the other co-accused had been to the house of the applicant did not state the date and time. They were only being asked to stay out

of the house and have been posed as witnesses to the conspiracy. After getting such an information, there should be some material to believe that the conspiracy was plotted. *Prima facie*, there is no material that there was a serious enmity of the applicant with the deceased. Nothing is recovered to *prima facie* establish the nexus of the applicant with the crime. On such insufficient evidence, it would be inappropriate to incarcerate the applicant. Every accused is presumed to be innocent unless he is convicted. However, the law confers the provision to arrest for investigation in the crime. Uttering the words by the co-accused and some of the witnesses that the applicant is a gangster, seems not sufficient to believe at this juncture that they were acting at the instance and instructions of the applicant. Learned counsel for the applicant has correctly argued that pending crimes against the accused is no ground to refuse the bail. The Court has to examine the charge sheet and material against the applicant in the case in which the accused seeks bail. Though there were large number of cases registered against the applicant, in most of the cases, he has been acquitted. Hence, those allegations would not help the prosecution to believe that the applicant is the conspirator. He being a social worker and politician, visiting his home by any person cannot be presumed to be a visit to plot the conspiracy. After having gone through the papers placed with the charge sheet, the Court is not satisfied that the prosecution has collected satisfactory material to

believe that the applicant had plotted the conspiracy to eliminate the deceased. Hence, the applicant could not be detained further. He deserve bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Raju Bhagwat Suryawanshi, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty 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 effective date.
 - (b) The applicant should not enter Bhusawal City for two months from the date of his release; however, he would be at liberty to participate in the election of the State Assembly, if he seeks candidature only.
- (iii) Criminal Application No.4448 of 2024 stands disposed of.

(S.G. MEHARE, J.)