



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

BAIL APPLICATION NO. 1808 OF 2024

SHUBHAM @ CHAKULYA SANJIV BIRADAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Vishwamber D. Gunale
APP for Respondent/State : Mr. S. P. Sonpawale

...
WITH
CRIMINAL APPLICATION NO. 4261 OF 2024 IN BA/1808/2024

ARUNA W/O. SHRIKANT DEVKATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant/victim : Mr. Sachin S. Panale

...
CORAM : S. G. MEHARE, J.

DATE : 17-10-2024

PER COURT :-

1. Heard the learned counsel for the applicants, the learned A.P.P. for the respondent/State and the learned counsel for the victim.
2. The applicants seek bail in C.R.No.131 of 2024 registered with Wadhwana Police Station, Taluka Udgir, District Latur, for the offences punishable Sections 302, 143, 147, 148 and 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951.
3. After hearing the respective learned counsels for the parties,

the Court expressed disinclination to grant bail to applicants No. (1) Shubham @ Chakula Sanjiv Biradar, (2) Balaji @ Papya Sanjiv Biradar and (3) Kewalbai w/o. Sanjiv Biradar. The learned counsel for the applicants, on instructions, seeks leave to withdraw their application. Leave granted. Their bail application stands dismissed as withdrawn.

4. The learned counsel for the applicants submits that applicants No.4 to 6 have been falsely implicated in the crime. There was variance in the statements of the witnesses in the crime. They are the residents of the same village where the incident happened. They are brothers of applicant No.3 Kewalbai. Since the incident happened, they went there. There was inordinate delay in recording the statement of eyewitnesses. There was also discrepancy regarding initiation of the action. Some acts of investigation were done before registering the crime. Nothing is to be recovered from them. Since they were the brothers of applicant No.3, they have been falsely arraigned as an accused. They are languishing in jail for sufficient period. Hence, they may be granted bail.

5. The learned A.P.P. submits that the offence is serious. *Prima facie* involvement of the applicants is established from the evidence collected by the Investigating Officer. The eyewitnesses are stating the role attributed to the applicants. The deceased was

murdered in the house of applicant No.3/sister of the applicants No.4 to 6. The chilly powder was thrown in the eyes and then he was beaten and strangulated. Hence, they may not be granted bail.

6. The learned counsel for the victim submits that the eyewitnesses are stating the role attributed to the applicants. Applicant No.4 Kachru was also holding a knife. He referred to the statements of the eyewitnesses and vehemently argued that the applicants were present at the time of the incident. They have played active role. He has also filed on record a non-cognizable case alleging against the relatives of the applicants that they threatened the eyewitnesses to the incident. Therefore, there may be danger to the witnesses or they may be tampered. Considering the gravity of the offence and the other circumstances, the applicants do not deserve bail.

7. Perused the papers.

8. The record is clear that the incident happened in the house of applicant No.3 Kewalbai. Applicants No.4 to 6 are residing in the same village at different place and at some distance. The statements of eyewitnesses as to the role attributed to the applicants are not consistent. Considering the papers, there is a scope to doubt their active role. Their presence of the spot of the incident after the incident was natural because they are brothers

of applicant No.3, who was residing with deceased. Nothing is to be recovered from them. There are no antecedents to their discredit. The chargesheet has been filed. Therefore, they deserve bail. However, an apprehension of the prosecution of tampering with the witnesses may be guarded by imposing certain conditions. Hence, the order:-

ORDER

- i) Bail Application of applicants No.4 to 6 is allowed.
- ii) Applicants No.(4) Kachru s/o. Jivan Doifode, (5) Laxman s/o. Jivan Doiphode and (6) Vilas s/o. Jivan Doiphode, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- each, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that;
 - (a) They should not tamper with the prosecution witnesses.
 - (b) They should stay away from village Chondi, Taluka Udgir, District Latur, for two months from the date of their release.
 - (c) They should attend the trial on each and every effective date.
- iii) Criminal Application No. 4261 of 2024 stands disposed of.

**(S. G. MEHARE)
JUDGE**