

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2153 OF 2023

Suresh Ravindra Kale

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Jadhavar Shivprasad G.

APP for Respondent/State : Mr. S.M. Ghanachari

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CORAM : S.G. MEHARE, J.

DATED : JUNE 19, 2024

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant seeks bail in Crime No.93 of 2023 registered with Shiradhon Police Station, District Osmanabad, for the offence punishable under Sections 302, 364, 324, 323, 452, 504, 506, 143, 147, 148, 149 of the Indian Penal Code.
3. The Court had heard the learned counsel for the applicant at length and also gone through the papers referred by him. After having gone through the papers and the material collected in the serious offence of murder, the Court expressed disinclination to grant bail. Learned counsel for the applicant sought time to take instructions. However, instead of making a statement, he came up with some judgments of this Court and re-argued the case. Such a practice is very common here. It is also not the case that the Court

did not hear the counsel for the applicant and, without hearing him, expressed the opinion.

4. This is a case of murder. The FIR is very specific that around nine persons came to the house of the deceased. They tried to kidnap him. He ran away in the house. Thereafter, all the assailants entered the house, lifted the deceased and assaulted him with stones on his head, chest and leg. Thereafter, he was taken in one Scorpio. In FIR, the name of the applicant has been mentioned as the son of Ravi Kale. The police, after investigation, arrested the applicant on 10.06.2023. Since then is behind bars.

5. The first limb of the argument of the learned counsel for the applicant is that Ravi Kale has three sons. No test identification parade has been held. After his arrest, supplementary statements were recorded on 18.06.2023, which were afterthought disclosing the name of the applicant as the assailant. He would submit that nothing incriminating has been recovered from him. He attributed no role in the crime. He has been falsely implicated in the crime. Time and again, he argued that Ravi Kale has three sons. He wanted to point out that naming the assailant as the son of someone is not sufficient. The name of the accused should be specific. He has referred to the number of documents. He referred to the case of Sadik Isamoddin Shaikh Vs. State of Maharashtra, AIRONLINE 2023 BOM 1160, Tushar Dhanraj Verma Vs. State of Maharashtra, AIRONLINE 2023

BOM 902 and Vishvanath Navnath Inkar Vs. State of Maharashtra, 2020 SCC Online Bom 7878. He prayed to grant the bail.

6. Learned APP has strongly opposed the application. He would submit that specific names of the assailants, along with the son of Ravi Kale, were mentioned in the FIR. Barely having three sons does not mean that the police have incorrectly arrested the applicant. The facts will prove that one of the sons of Ravi Kale was the assailant. He would submit that the applicant has overacted and assailed the deceased with stones. There is no bar to record the supplementary statement after the accused has been produced before the Court. The first informant knew all the accused involved in the case. The applicant cannot take benefit of an incomplete name or no specific name of the applicant. There is nothing on record to implicate the accused falsely. It was a serious offence. Eyewitnesses stated the role attributed to the applicant. He prayed to dismiss the application.

7. No doubt, the specific name of the applicant has not been mentioned in the FIR, but he was identified by the first informant, who was the eyewitness to the incident, that he was the son of Ravi Kale. During the course of the investigation, it transpired that the applicant was there as a son of Ravi Kale. Learned counsel for the applicant, referring to the case of Sadik Isamoddin Shaikh (cited supra) tried to argue that a specific role should be attributed to the applicant. In the case of Tushar Dhanraj Verma (cited supra), the facts

were that there was no specific allegation against the applicant that he was holding a knife in his hands and assaulted the deceased. Supplementary statement of the eyewitnesses disclosed that all accused assaulted the deceased by means of fist and kick blows. The facts of the case of Sadik Isamoddin Shaikh (cited supra) were altogether different. The allegations against the applicant were of conspiracy. In the case of Vishvanath Navnath Inkar (cited supra) case, bail was sought on the grounds of no progress in the trial. The bail was granted on peculiar facts. No ratio has been laid down in all these cases, which can be considered a precedent. All these applications were decided on the facts and circumstances of the case. So, though its test identification parade has not been held, it does not mean that the first informant did not know the applicant. He knew him as the son of Ravi Kale. In the normal course, the eyewitnesses to the incident should not mistaken in identifying the people whom they know. The FIR reveals that the assailants went to the house of the deceased. He tried to run away. Then they entered his home, took him out, assaulted him with stones and then took him in a Scorpio, and thereafter, he was found dead. The conduct of the applicant shows aggression. On reaching the home of the deceased, the accused assaulted him to death. The circumstances show the criminal intent of the applicant. In a subsequent statement, the applicant has been specifically named. At this juncture, the applicant cannot take

advantage of not mentioning the specific name. He can be identified in the Court while recording the evidence. Nothing is on record to believe that he has been falsely implicated in the crime. The offence is serious. One person has lost his life. The circumstances are strongly against the applicant. Hence, he does not deserve bail. For the above reasons, The application stands dismissed.

(S.G. MEHARE, J.)