



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 BAIL APPLICATION NO. 1137 OF 2024 WITH
CRIMINAL APPLICATION NO. 2912 OF 2024 IN
BAIL APPLICATION NO. 1137 OF 2024

Ashok @ Rinku Prakash Patil

....Applicant

VERSUS

The State Of Maharashtra & another
.....

.....Respondents

Mr. Sudarshan Salunke, Advocate holding for Mr. S. V Suryawanshi,
Advocate for the Applicant.

Mrs. P. J. Bharad, APP for the State.

Mr. M. V. Salunke, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 1st AUGUST, 2024.

PER COURT :

1. At the outset, learned counsel for the informant seeks
leave to assist learned APP.

2. Leave granted. Criminal Application No. 2912 of 2024
stands allowed.

3. Applicant is seeking bail in connection with Crime No.
0394/2023 registered with Amalner Police Station, Tq. Amalner, Dist.

Jalgaon, for the offences punishable under Sections 302, 304, 301 of Indian Penal Code.

4. First Information Report has been lodged pursuant to the order passed by the Judicial Magistrate First Class, Amalner, under Section 156(3) of Code of Criminal Procedure. It is the contention of the informant that the Applicant and deceased left on motorcycle at about 9.00 pm on 22.04.2023. Since the deceased did not return home, informant called the Applicant making enquiry about the deceased. Applicant, instead of responding to the said call, switched off the phone. On the next day, the dead body of deceased Pravin was found by the police. It is the contention of the informant that the deceased was last seen with the Applicant and thereafter no one has seen him alive and hence Applicant is responsible for the death of deceased. It is his further contention that the attempts made by him to lodge report to the police failed and hence he had no other option but to file an application before Judicial Magistrate First Class, Jalna. Pursuant to the order passed by the Judicial Magistrate First Class, offence came to be registered.

5. Learned counsel for Applicant submits that charge-sheet has been filed against Applicant under Sections 304 and 201 of the Indian Penal Code. It is his submission that on the basis of the evidence collected during investigation, it cannot be said that offence of murder can be attributed to the Applicant. Learned counsel for Applicant makes a statement on instructions that Applicant has no criminal history and he is not likely to abscond.

6. Learned APP opposed the application by drawing attention of the Court to the Post Mortem report and cause of death. Learned counsel for the informant strenuously opposed the application. It is his submission that the First Information Report sought to be lodged by informant was not accepted by the police and hence he was compelled to file application before the Judicial Magistrate First Class. Thus, according to him, for this reason time was lapsed in between occurrence of the incident and lodging of the report. By drawing attention of the Court to the statement of witnesses more particularly, statement of Pravin Patil, it is sought to be argued that the witnesses are trying to change their version in order to support the Applicant/accused. It is his submission that since no one has seen deceased after he was last seen in the

company of Applicant, it is a case of murder. He further submitted that an application is moved before the Judicial Magistrate First Class for adding offence under Section 302 of Indian Penal Code and it is still pending.

7. There is no dispute about the fact that after conclusion of investigation, the investigating agency has filed charge-sheet against the Applicant not for offence of murder under Section 302 of Indian Penal Code but he is proposed to be charged for offence punishable under Sections 304 and 201 of Indian Penal Code. Thus, investigation agency has come to the conclusion that offence of murder cannot be charged against the Applicant on the basis of evidence collected during investigation. Even otherwise, prima facie perusal of the charge-sheet does not show any evidence indicating offence being not under Section 304 but under Section 302 of Indian Penal Code. Prima facie, there is no evidence to show any motive for the Applicant to kill deceased. Having regard to the aforestated facts, there is no justification to reject this application for bail. Appropriate conditions can be imposed against the Applicant which would ensure his presence before the Court for undergoing trial and

take care of apprehension of prosecution. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) Applicant be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one surety in the like amount, in connection with Crime No. 0394/2023, registered with Amalner Police Station, Tq Amalner, Dist. Jalgaon, for the offences punishable under Sections 302, 304, 201 of Indian Penal Code.
- (iii) He shall not contact and pressurise the witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) Bail before Trial Court.
- (vi) Observations made hereinabove are restricted to the decision of this application and the learned Judicial Magistrate First Class not to get influenced by the same while deciding the application of the

informant for adding offence under Section 302 of Indian Penal Code or even during trial.

(R. M. JOSHI)
Judge

dyb