

The State Of Maharashtra ... Respondent

Mr. S.D. Madane, Bhilvadi Police Station, Present.

CORAM : ANIL S. KILOR, J.

DATE : 21ST OCTOBER, 2024.

PC:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.29 of 2024, registered with Bhilwadi Police Station, Vita, Dist: Sangli for the offences punishable under Sections 302, 307, 326, 324, 323, 504, 506, 143, 147, 149 of the Indian Penal Code and Section 37(1) (a) and 135 of the Maharashtra Police Act.
3. On the suspicion that the deceased strain the ashes of the grandmother of the Rahul Motakatte who died three days before the

present incident. All the accused went to the house of the deceased and the questioned him why he did so and thereafter, co-accused Arjun inflicted a blow by cement block on the head of the deceased, because of this injury he died.

4. Though after going through the charge-sheet and the relevant material collected by the IO, it appears that the applicant was present on the spot and further though the offence is registered under Section 149 of the IPC as regards the unlawful assembly with common intention, there is noting to point out that there was a common intention of all the accused to eliminate the deceased.

5. On the contrary from the FIR and statements of the witnesses including the statement of witness recorded under section 164 of Cr.Pc., it is evident that all the accused went there to question the deceased why he strained the ashes of the grandmother of Arjun Motakatte. There is no overt act attributed against the applicant.

6. Thus, though the offence is very serious, since the applicant is not the author of the injury which is the cause of death of the deceased and further as there is nothing to point out that there was any common intention of all the accused persons, I am of the opinion that though the learned APP is strongly opposing the application, the applicant is entitled for grant of bail.

7. The learned APP however expressed an apprehension that the applicant and the witnesses are from the same village and there is every possibility that if the applicant is released on bail he may pressurize the witnesses and in that case there would be no fair trial.

Thereupon, the learned counsel for the applicant, on instructions, makes a statement that the applicant is ready to abide by any condition, including the condition not to enter into territorial jurisdiction of Bhilwadi Police Station, till the conclusion of the trial.

8. Accordingly, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant be released on bail in Crime No.29 of 2024, registered with Bhilwadi Police Station, Vita, Dist: Sangli for the offences punishable under Sections 302, 307, 326, 324, 323, 504, 506, 143, 147, 149 of the Indian Penal Code and Section 37(1) (a) and 135 of the Maharashtra Police Act on furnishing PR.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;
- iii) The applicant shall not enter into Mumbai and territorial jurisdiction of Bhilwadi Police Station, till the conclusion of the trial;
- iv) The applicant shall provide their address and name of the nearby police station to the IO, which they shall attend the said Police Station on 1st and 16th day of every month between 10.00a.m. to 11.00 a.m., till the conclusion of the trial except on the date of trial;

v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi) Liberty is granted to the State to apply for cancellation of bail in case of any breach of condition or if the applicant commits similar offence;

vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

9. The application is disposed of.

(ANIL S. KILOR, J)