

V/s.

The State of Maharashtra ... Respondent

Mr.Satyavrat Joshi I.by Shri Samay Pawar, for the applicant.

Mr. Pankaj Deokar, APP, for the Respondent/State.

CORAM : ANIL S. KILOR, J.

DATE : 19TH JUNE, 2024.

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PC:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.297 of 2022, registered with Atpadi Police Station for the offences punishable under Sections 302, 201, 34 read with 120 (B) of the Indian Penal Code (for short, 'IPC').
3. Learned counsel for the applicant submits that the whole case is based on circumstantial evidence and though it is alleged that the poison was mixed in beer which was consumed by the deceased, the beer bottle and the glass used for consumption of beer was not sent

for CA test. It is further submitted that the other two co-accused of whom the role is similar, as of the applicant, have been released on bail and as such the applicant is entitled for grant of bail on the principle of parity. It is submitted that the applicant is in jail from last about two years and as the investigation is completed further custody of the applicant is not necessary. It is lastly argued that there are no antecedents, and as there is no possibility that the applicant would not be available for trial, he may be released on bail.

4. The learned APP, on the other hand, strongly opposes the application and submits that the CA report supports the case of the prosecution. He further points out the relevant statements of the witnesses which indicate that the poison was purchased at the instance of the applicant. He accordingly, submits that since the applicant is the main accused, he may not be released on bail.

5. I have perused the charge-sheet and the material collected by the IO during the investigation. Noting is pointed out that the beer bottle which was seized at the instance of the applicant or the glass through which the deceased consumed the beer containing poison, were sent to CA test. Moreover, the whole case is based on circumstantial evidence. The other two co-accused have been released on bail and if their role is considered it appears to be similar one with the role of the applicant.

6. In the circumstances, as the charge-sheet has already been filed and the applicant is in jail from last about two years, coupled with

the fact that there are no antecedents against the applicant, I am of the opinion that this is a fit case for grant of bail.

7. So far as apprehension expressed by the learned APP that if the applicant is released on bail, he may pressurize the witnesses and tamper with the prosecution evidence is concerned, the same can be addressed by putting certain stringent conditions.

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in Crime No.297 of 2022, registered with Atpadi Police Station for the offences punishable under Sections 302, 201, 34 read with 120 (B) of the Indian Penal Code, on furnishing P.R.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;
- iii) The applicant shall not enter into the territorial jurisdiction of Atpadi Police Station till the conclusion of the trial;
- iv) The applicant shall provide his address and name of the nearby police station to the IO, which he shall attend the said Police Station on 1st and 16th day of every month between 12.00noon to 2.00

p.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 if the applicant commenced 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.

8. The Criminal Application is **disposed of** accordingly.

(ANIL S. KILOR, J)