

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 108 OF 2024**

Ladu Kumar Paswan s/o. Pawan Paswan	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Ashif Husain a/w. Ms. Deepika Oswal and Mr. Kaif Ansari for applicant.

Mr. Prasanna P. Malshe, APP for respondent-State.

Mr. Pradip A. Ahire, PSI, MIDC Police Station, Mumbai.

**CORAM : MANISH PITALE, J.
DATE : 30th AUGUST, 2024**

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. After hearing the counsel for some time on 26.08.2024, this Court had adjourned the hearing of the application for today, in order to give time to the learned APP to take instructions as regards the FSL report.

3. In the present case, the applicant is the sole accused person and the allegation against him is that he caused the death of the victim on 06.09.2022. It is alleged that when the informant and the another person had left the spot of the incident i.e. a workshop, where the informant and the witnesses were also residing, during the night, the applicant allegedly assaulted the victim by means of iron pipe, due to which the victim succumbed.

4. The learned counsel for the applicant invited attention of this Court to the statement of the informant, leading to registration of FIR, as also the statements of witnesses recorded during the course of investigation. He submitted that even according to such statements, the applicant was found to be sleeping in an adjacent room, when the informant and his companion returned in the night, after attending Ganpati festivities. It is stated that the victim was found injured and in a pool of blood, while the applicant was sleeping in the adjacent room. It is submitted that even according to such statements, alcohol was consumed by the informant, victim, applicant and others in the evening, before the incident took place.

5. It is submitted that in such a situation, it is improbable that the applicant having assaulted the victim, would have casually walked to the adjacent room and slept. It is further submitted that the only aspect on which the investigating authority is linking the applicant with the incident in question, is the blood stains allegedly found on his clothes. But, as stated by the learned APP today, the FSL report was not received and effectively, there is nothing to link the applicant with the incident in question.

6. It is submitted that there are no criminal antecedents against the applicant and he has remained behind bars since 07.09.2022 i.e. for about two years.

7. On the other hand, the learned APP submitted that the statements of the witnesses as also the informant, clearly indicate that the applicant and the victim were last seen together, immediately prior to the victim being found in injured condition. The aforesaid circumstance clearly links the applicant with the incident in question. It is submitted that the weapon of

assault was recovered at the behest of the applicant from the spot of the incident. It is further submitted that since blood stains were found on the clothes of the applicant, there is sufficient material to link him with the incident in question and he does not deserve to be enlarged on bail.

8. This Court has considered the material on record, in the light of rival submissions. The statement of the informant and the witnesses recorded during the course of investigation, do indicate the presence of the applicant with the victim, informant and others on the date of the incident. But, the statements also reveal that when the informant alongwith his companion, returned to the place of incident i.e. the workshop, the victim was found in an injured condition and in a pool of blood, while the applicant was found in the adjacent room and he was sleeping. It has also come in the statements that before the informant and his companion left for attending Ganpati festivities, all of them had been drinking. The weapon of assault has been recovered from the spot of the incident.

9. It is relevant to note that the spot of the incident is a workshop, where the informant, victim, applicant and others were also residing. In such a situation, even according to the informant and the witnesses, the applicant was found sleeping in the adjacent room, when the victim was found injured and in a pool of blood. If the applicant had indeed assaulted the victim, it appears a little unnatural that he would casually walk to the adjacent room and sleep, after having carried out the ferocious assault on the victim. *Prima facie*, a case is made out by the applicant in his favour.

10. Apart from this, the FSL report is not available as regards the alleged blood stains on the clothes of the applicant to link him with the said assault.

The applicant does not have any criminal antecedents and he is ready to abide by the conditions that may be imposed by this Court.

11. At this stage, the learned APP submitted that the applicant is a resident of Bihar and there is possibility of the applicant absconding. Appropriate condition can be imposed on the applicant to address the apprehension expressed by the learned APP.

12. In view of the above, the application is allowed in the following terms:

- (i) The applicant shall be released on bail in connection with FIR No.1017 of 2022 dated 07.09.2022, registered at MIDC Police Station, Mumbai, on furnishing P.R. Bond of ₹ 25,000/- and one or two sureties in the like amount to the satisfaction of the trial court.
- (ii) The applicant shall attend MIDC Police Station on first Monday of every month between 10:00 a.m. and 12:00 noon, during the pendency of the trial.
- (iii) Upon release, within one week, the applicant shall inform the Investigating Officer as well as the trial court about his contact number and residential address and update the same in case of any change;
- (iv) The applicant shall not leave the jurisdiction of the Court of Sessions at Dindoshi (Borivali Division), Goregaon, Mumbai, during the pendency of the trial;
- (v) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.
- (vi) The applicant shall attend the proceedings before the Trial Court on every date, except when exempted, for reasons to be recorded in writing.

13. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of the present order.

14. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The application is disposed of.

(MANISH PITALE, J)

Priva Kamhli