



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.26 OF 2024
(Vasanta Dattatray Dudhe Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. V.D. Darne, Advocate for the applicant.
Mrs. M.H. Deshmukh, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 8, 2024.

Heard learned Counsel for the applicant
through Video conferencing.

2. By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 21/06/2023 in connection with Crime No.317/2023 registered with Police Station Ladkhed, Tahsil Darwha, District Yavatmal for the offence punishable under Sections 302 and 506 read with Section 34 of the Indian Penal Code.

3. As per the case of the prosecution the applicant and the complainant both are residents of Mahagaon Kasba and the agriculturist. The informant namely Datta Tulshiram Deware lodged the report on an allegation that he had purchased the land of the co-accused Akash Dudhe by obtaining the loan. There was a charge on the said loan of Rs.17,500/-, and therefore, he

was insisting the present applicant and his son to repay the said amount and clear the title but present applicant and his son has not repaid the amount. They have called the deceased Santosh on pretext of paying the money inside the house and committed his murder by assaulting him by means of axe and the knife. On the basis of said report, police have registered the crime against the present applicant and other co-accused.

4. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence as no direct evidence is collected by the Investigating Officer during the investigation. As far as the circumstances against the present applicant is concerned which is only one circumstance i.e. seizure of the axe at the instance of the present applicant. He submitted that both the weapons are referred to the Medical Officer for his opinion and the query report of the Medical Officer shows that no blood stains are found on the axe but the blood stains are found on the knife which was seized at the instance of the co-accused who is son. He further submitted that the recitals of the FIR shows that the FIR is lodged merely on suspicion. Besides the seizure of the weapon there is no material collected during the investigation to show the involvement of the present applicant. The applicant is 70 years old and the alleged incident has occurred out of the dispute over the payment of the amount towards the charge on the land. Now, the investigation is completed and charge-sheet is filed, the

applicant is 70 years old man, his further incarceration is not required and if he is sent behind bar his health will be deteriorated due to the jail atmosphere.

5. Said application is strongly opposed by the State on the ground that during investigation the weapons are recovered at the instance of the present applicant as well as co-accused. The statement of the informant also shows the involvement of the present applicant in the alleged offence. Though investigation is completed and charge-sheet is filed, the applicant and the witnesses both are from the same village. There is every possibility of tampering of the witnesses. In view of that bail application deserves to be rejected.

6. Having heard learned Counsel for the parties and perused the investigation papers. The FIR is lodged by the informant as he was having suspicion that due to the dispute between them present applicant has committed the murder of deceased Santosh Tulshiram Deware. Moreover, the dead body of the deceased was also found near the house of the present applicant. During investigation, the Investigating Officer has recorded the memorandum statement of the present applicant and co-accused. At the instance of the present applicant one axe was recovered. The said axe was forwarded to the Medical Officer. No blood stains are found on the blade of the said axe. One knife is recovered at the instance of the co-accused who is son of the present applicant on which the

blood stains are found and the CA report is yet to be received. As far as the present applicant is concerned, except the seizure of the axe no other material is collected during the investigation. The postmortem report shows that the deceased has sustained five injuries which are in the nature of stab wounds and chop wounds. During investigation, the Investigating Officer has also collected the memory cards of the mobile phone of the co-accused and the informant. As per the investigation papers, besides the memorandum statement no other material is to connect the present applicant at this stage.

7. Considering the investigation is completed and charge-sheet is filed, no specific role at this stage revealed as far as the assault on the deceased is concerned by the present applicant as no blood stains are found on the weapon which is seized at the instance of the present applicant. His bail application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The applicant - Vasanta Dattatray Dudhe in connection with Crime No.317/2023 registered with Police Station Ladheda, Tahsil Darwaha, District Yavatmal for the offence punishable under Sections 302 and 506 read with Section 34 of the Indian Penal Code, be released on bail on furnishing

P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of Mahagaon Kasba, Tahsil Darwha, District Yavatmal till the culmination of the trial.

(iv) The applicant shall furnish his Cell phone number and address where he would reside after release on bail with address proof before the Investigating officer.

(v) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*