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

CRIMINAL APPLICATION (BA) NO.170 OF 2024
(Mayur Pramod Mamelwar Vs. The 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. U.P. Dable, Advocate for the applicant.
Mr. U.R. Phasate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 3, 2024.

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 16/08/2023 in connection with Crime No.402/2023 registered with Police Station Chandur Railway, District Amravati for the offence punishable under Section 302 of the Indian Penal Code.

2. The accusation against the applicant is on the basis of report lodged by son of the deceased namely Ujwal Ramesh Meshram alleging that on 14/08/2023, the father of the complainant had gone to Crusher by informing that he will return after some time but he did not returned therefore, on the next day at about 11.00 a.m. in the morning, the complainant went to see his father and seen his dead body in the agricultural field. He saw that his father was lying in the pool of blood. On the basis of said report, police have registered the crime

against the unknown person. During investigation, it revealed to the investigating agency that the deceased has promised the present applicant and other co-accused that he is able to create a rain of money but he could not do so, and therefore, the present applicant and other co-accused who got angry and there was hot altercation of the words between them. It is alleged that the present applicant and other co-accused hatched the conspiracy and killed the deceased. After due investigation the charge-sheet is filed against the present applicant along with other co-accused.

3. Learned Counsel for the applicant submitted that except the CDR report showing the telephonic call between the present applicant and accused No.5 Kamlakar Bapurao Meshram there is no other material to connect the present applicant with the alleged offence. He submitted that the entire case is based on the circumstantial evidence. But the only circumstance which according to the prosecution connect the present applicant is the telephonic communication on 14/08/2023. He submitted that now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the applicant along with the other co-accused hatched the conspiracy

and as a part of the conspiracy the present applicant and other co-accused have switched off their mobile phones in the intervening night of 14/08/2023 and 15/08/2023 to mislead the investigating agency. In pursuance to the said conspiracy they have committed the murder of the deceased. Considering the gravity of the offence, the application deserves to be rejected.

5. Having heard the learned Counsel appearing for the parties. Perused the investigation papers. Admittedly, the crime is registered against the unknown persons. During the investigation, the Investigating Officer has recorded the relevant statements of the witnesses. As far as the other co-accused are concerned, the statement shows that the witnesses have seen one Car bearing No.MH-40-BL-3262 at the spot of incident. As far as present applicant is concerned, none of the statement either shows the presence of the present applicant along with the other co-accused. Thus, except the CDR reports which showing the call between the present applicant and accused No.1 in the intervening night, there is no other material to connect him with the alleged offence.

6. On perusal of the said CDR report it shows that the last call between the present applicant and other co-accused is of 14/08/2023 at about 20:04:00 and thereafter the mobile phone of the present applicant appears to be switched off. The applicant and the other co-accused are from the same village. As far as the dispute

or the hot altercation between the present applicant and other accused are concerned, the statement of the witnesses are recorded but none of the witnesses stated either they have seen the said hot altercation or the said hot altercation were taken place in their presence. Thus, at this stage, except the CDR reports there is absolutely no material to connect the present applicant with the alleged offence.

7. Admittedly, the offence alleged is the grievous offence, but considering the material collected during the investigation that only one circumstance is appeared against the present applicant and now investigation is completed and charge-sheet is filed. Also considered the principles regarding the circumstantial evidence which shows that when prosecution relies upon the circumstantial evidence, the chain of the circumstances shall be established beyond reasonable doubt. At this stage, considering the circumstance i.e. of the telephonic communication and there is no other material on which prosecution is relied upon and the investigation is completed and the charge-sheet is filed. No purpose would be served by keeping the present applicant behind bar. Hence, the 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 – Mayur Pramod Mamelwar in connection with Crime No.402/2023 registered with Police Station Chandur Railway, District Amravati for the offence punishable under Section 302 of the Indian Penal Code, be released on bail on executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iii) The applicant shall not leave the jurisdiction of the Nagpur district without prior permission of the District Court.

(iv) The applicant shall furnish his Cell phone number and address along with the names and address of his two relatives with address proof.

(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 stands disposed of.

(URMILA JOSHI-PHALKE, J.)