



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

CRIMINAL APPLICATION (BA) NO.358 OF 2024

(Tejas s/o Gajanan Hingankar 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. A.S. Londhe, Advocate for the applicant.
Mr. A.G. Mate, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JUNE 19, 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 in connection with Crime No.277/2023 registered with Police Station Civil Lines, Akola, District Akola for the offence punishable under Sections 120-B, 201, 302, 364, and 506 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by mother of the victim. The dead body of one unknown person was found and recovered from the Well and thereafter, the wheels of the investigation started rotating. Prior to that, on 13/11/2022 the informant has lodged the missing report stating that her son Aakash has left the house on 12/11/2022 and did not return back. During the investigation, the investigating officer has recorded the statement of one Prashik Sanjay Ingle and it revealed that on earlier night i.e. on 12/11/2022 Aakash was lying in

front of the shop of Wankhade Guruji and was under the influence of liquor. During the investigation, it further alleged that there was a previous enmity between the co-accused Pramod @ Pintu Thombre and the family of the informant, as brother of the said co-accused Pramod @ Pintu Thombre namely Vinod was allegedly murdered by the family members of the deceased. During the investigation, the suspicion was raised against the co-accused Pramod Thombre therefore, he was arrested. At his instance, some incriminating weapons were recovered and the involvement of the present applicant is revealed.

3. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence. The circumstances on which the prosecution placed reliance on are not completely established, merely on suspicion present applicant is arrested. Now, the investigation is already completed and charge-sheet is filed. Considering the only allegation against the present applicant is that he concocted the conspiracy with the co-accused and in pursuance to that conspiracy eliminated the deceased. The only circumstance on which prosecution relied upon is the recovery of the clothes and the recovery of the place where dead body was found at the instance of the present applicant. Thus, the chain of the circumstances is not established, therefore, there is no *prima facie* material against him. In view of that, he be released on bail.

4. Learned APP strongly opposed the application and pointed out that at the instance of the co-accused the spot where the present applicant and other co-accused burnt the cloths of the deceased was discovered. The statement of the witnesses are also recorded from which it seems that there was a previous enmity between the co-accused and the deceased. He further submitted that weapons were recovered from the vehicle are seized. The CDR reports shows that there was consistent calls between the present applicant and the other co-accused. Earlier rivalry reflects that the brother of the co-accused was murdered by the family members of the deceased. Two knives were recovered at the instance of the co-accused. The dead body was found completely in a decomposed condition. The inquest panchnama shows in what manner the deceased was assaulted and murdered. Considering the circumstantial evidence which connects the present applicant with the alleged offence. Hence, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that initially missing report was filed by the mother as deceased was deceived. The recitals of the FIR further shows that on earlier night the deceased was under the influence of liquor and was lying in front of shop of one Wankhade. The mobile phone of the deceased was obtained by his friend and kept along with him. The statement of friend of the deceased Prashik Ingle is also

recorded who substantiate the said fact. From the recitals of the FIR it further reveals that there was previous enmity between the family of the deceased and the co-accused Pramod @ Pintu Thombre. As far as the present applicant is concerned, during investigation the statement under Section 27 was recorded and at his instance the clothes as well as the place where the dead body was thrown was also recovered. During the investigation, two knives are also recovered at the instance of the co-accused. The CDR reports which are placed on record shows that from 11th to 14th there were continuous calls between the present applicant and the other co-accused. Thus, the discovery at the instance of the present applicant, recovery of the knives at the instance of the co-accused, the CDR report shows the continuous communication with the co-accused, the previous rivalry between the co-accused and the deceased and the circumstances substantiated by the fact that weapons are recovered from the vehicles which is used in the commission of the crime, the place where the cloths of the deceased were burnt is also recovered at the instance of the co-accused. Thus, the entire cumulative effect of the circumstances shows the involvement of the present applicant in the alleged offence. In view of that, the application deserves to be rejected.

6. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)