



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

CRIMINAL APPLICATION (BA) NO.436/2024

Sachin s/o Ashokrao Dahat

..VS..

The State of Maharashtra, through PSO PS Saoner, District Nagpur

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

**Shri C.R.Thakur, Counsel for the Applicant.
Shri C.A.Lokhande, Additional Public Prosecutor for the State.**

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 08/08/2024

PRONOUNCED ON : 12/08/2024

1. By this application, being moved under Section 439 of the Code of Criminal Procedure, the applicant seeks regular bail in connection with Crime No.86/2023 registered with the non-applicant/ police station for offences punishable under Sections 120-B, 201, 302, 364-A, and 386 read with 34 of the Indian Penal Code.

2. The applicant is arrested on 8.2.2023 and since then he is in jail.

3. The crime is registered on the basis of report lodged by Venkatesh Yadavrao Donode. As per the report, deceased Dilip Dherawat was doing business of "Ayurvedic Medicine" and co-accused Ajay Solani is related to the deceased and co-accused Kewal Kothe is

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friend of said Ajay Solanki. They were aware about sound financial position of deceased Dilip and, therefore, they hatched a conspiracy along with one Ritesh Ingole and other co-accused for extracting money from deceased Dilip. As per plan of the conspiracy, they all met at Sanket Lodge on 24.1.2023 and decided to extract Rs.10.00 lacs from deceased Dilip. In pursuance of the said conspiracy, on 30.1.2022, co-accused Kewal Kothe called deceased Dilip under a pretext of treating one of friends and purchasing “Ayurvedic Medicine”. Deceased Dilip was kidnapped in “Ertiga” vehicle and was taken to a forest, assaulted him, and caused his death. Thereafter, his dead body was buried. In the meantime, mother-in-law of one of co-accused Pinki Swami lodged a missing report on 5.2.2023. The wife of deceased Dilip also lodged a missing report on 30.1.2023. During enquiry into missing report lodged by Pinki Swami, as her son-in-law Ritesh Ingole and his wife were missing, the investigating agency collected his mobile details. From the mobile details it revealed that co-accused Kewal Kothe was in contact with him. Said Kewal Kothe was taken into the custody and during his interrogation, it revealed that he along with other co-accused, including the applicant, hatched conspiracy and eliminated deceased Dilip. On the basis of his statement, the place where the dead body was buried was discovered.

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On the basis of statement of co-accused, place where they burnt clothes was also discovered. At the instance of the co-accused, dead body was also recovered. After completion of the investigation, chargesheet was filed against the accused.

4. Heard learned counsel Shri C.R.Thakur for the applicant and learned Additional Public Prosecutor Shri C.A.Lokhande for the State.

5. Learned counsel for the applicant submitted that since the date of arrest, the applicant is behind the bars. The entire case is rested on circumstantial evidence. As far as involvement of the applicant in conspiracy is concerned, none of witnesses has stated name of the applicant. He was also not placed for Test Identification Parade. Though the investigating officer recorded statements of various witnesses, none of statements discloses either the applicant was seen with deceased Dilip or with any of co-accused. The CDRs also nowhere disclose any communication between the applicant and other co-accused. Thus, neither involvement of the applicant in conspiracy nor execution of act was revealed. Thus, considering role attributed to the applicant, there is absolutely no evidence to show that either he was conspirator or involved in the actual incident.

6. Learned Additional Public Prosecutor for the State strongly opposed the application on ground that statements of co-accused consistently show that applicant was not only involved in the conspiracy but also involved in the actual incident of assault and he eliminated deceased Dilip. He further submitted that CDRs are collected, which show that the co-accused were found in Katol area. The alleged incident has also occurred in Katol area. The association of the applicant with the co-accused sufficiently shows his involvement and prays for rejection of the application.

7. After hearing learned counsel for the applicant and learned Additional Public Prosecutor for the State, it reveals that deceased Dilip was missing from 30.1.2023 and his dead body was found on 7.2.2023. Prior to that, one Pinki Swami lodged a missing report that her son-in-law Ritesh Ingole, who is one of co-accused, is missing. During the missing report of Ritesh Ingole, it revealed that said Ritesh Ingole was continuously in contact with co-accused Kewal Kothe and, therefore, said Kewal Kothe was arrested. During interrogation with said Kewal Kothe, involvement of the applicant revealed. It is also revealed that the applicant and other co-accused hatched conspiracy and in pursuance of the said conspiracy, they abducted deceased Dilip and demanded amount Rs.10.00 lacs from

him. As deceased Dilip has shown inability to pay the amount, he was taken in a forest area and was eliminated there. At the instance of the statement of the co-accused, dead body of deceased Dilip was recovered and forwarded to postmortem examination. The cause of death of deceased Dilip appears to be head injury with hyoid bone fracture. At the instance of the co-accused, dead body was also recovered. During investigation, the investigating officer has also collected CCTV Footage from Sanket Lodge, Surya Lodge, and Mobile Shoppe of one Dhale Jewellers and Annapurna Restaurant from which only it reveals that co-accused Abdul Manjmil Abdul Naim Khan came in “Ertiga Car” in a Sanket Lodge and, thereafter, he proceeded from the said place.

8. As far as the contention of the prosecution, that co-accused Abdul Manjmil Abdul Naim, the applicant, and other co-accused taken deceased Dilip in the said “Ertiga Car”, the same is not substantiated as the CCTV Footage only shows co-accused Abdul Manjmil Abdul Naim in the Sanket Lodge and he left the place after some time. The statement of one Mayur Shende was recorded, who was working in said Sanket Lodge. His statements also nowhere discloses that the applicant was present along with said Abdul Manjmil Abdul Naim and co-accused Ritesh Ingole. He only stated

that co-accused Ritesh Ingole and 2-3 unknown persons sat in the office and, thereafter, took one person along with them. The statement of one Sunil Kedar is also of a similar nature.

9. Thus, as far as identity of the applicant is concerned, it is neither stated by any of witnesses nor it was revealed from the CCTV Footage.

10. Thus, none of circumstances shows involvement of the applicant in the alleged crime. The applicant is also not placed for Test Identification Parade. Considering the nature of the evidence and the co-accused, against whom similar allegations are levelled, is already released on bail, the application deserves to be allowed, as per order below:

ORDER

(1) The criminal application is **allowed**.

(2) Applicant - Sachin s/o Ashokrao Dahat, shall be released on bail in connection with Crime No.86/2023 registered with the non-applicant/ police station for offences punishable under Sections 120-B, 201, 302, 364-A, and 386 read with 34 of the Indian Penal Code on his

executing a PR.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(3) The applicant shall attend the police station once in a month on first Sunday between 10:00 am and 1:00 pm, till culmination of the trial.

(4) The applicant shall not leave the jurisdiction of the District Court, Nagpur without prior permission of the court.

(5) The applicant shall attend proceedings before the trial court without seeking exemption, unless there are exception circumstances.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!