



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

CRIMINAL APPLICATION (BA) NO.768 OF 2023
(Hiralal s/o Ratansingh Balavane 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.J. Thakkar, Advocate for the applicant.
Ms S. Dhote, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JANUARY 24, 2024.

By this application, the applicant is seeking bail in connection with Crime No.239/2022 registered with Police Station Dhad, District Buldhana for the offences punishable under Sections 302, 120-B and 506 read with Section 34 of the Indian Penal Code.

2. The applicant came to be arrested on 29/09/2022 and since then he is behind bar.

3. The accusation against the present applicant is that the deceased is his sister and the dead body of the deceased was found on 28th September, 2022 in the well situated in Gat No.273 owned by Mr. Shamrao Raut. The informant alleged in his report that since the present applicant was having suspicion that deceased had committed some black magic on his son, and therefore, his son died prior to the incident and due to which he got annoyed and there was a quarrel between him and the deceased and the present applicant has eliminated the

deceased. On the basis of said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that except the statements of the witnesses showing that on the day of incident, the applicant was working in his agricultural field whereas the deceased was also working in her agricultural field and thereafter deceased was found dead. He submitted that merely on suspicion the present applicant is implicated in the alleged offence. The prosecution relied on only the circumstance that blood stained clothes of the present applicant are seized during the investigation. The chemical analyzer report is yet to be received. He submitted that applicant is of 65 years. Now, the investigation is completed and charge-sheet is filed. Considering the nature of the evidence, further incarceration of the present applicant is not required. No *prima facie* case is made out against him, and therefore, he be released on bail.

5. Learned Additional Public Prosecutor strongly opposed the application on the ground that at the instance of the applicant the blood stained cloths are seized. The statements of the witnesses shows there was a previous quarrel between the deceased and the present applicant. The present applicant has every motive to eliminate the deceased. As *prima facie* case is made out, the application deserves to be rejected.

6. I have heard learned Counsel for the parties and perused the investigation papers. Admittedly, except the statements of the witnesses showing that on the day of incident, the applicant was working in his agricultural field and the deceased was also working in her agricultural field which are adjacent to each other. There is no other material to show that either somebody has seen the deceased and the present applicant together. The only circumstance which is pointed out by the learned Additional Public Prosecutor is that the recovery of the stone and blood stained cloths at the instance of the present applicant. The panchnama of recovery of the stone nowhere shows that any blood stains are found on the said stone. As far as the recovery of the blood stained clothes are concerned, chemical analyzer report are yet to be received. At this stage, investigation is completed and charge-sheet is filed. Considering the nature of the evidence collected by the Investigating Officer and considering further incarceration of the present applicant is not required, 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 - Hiralal s/o Ratansingh Balavane in connection with Crime No.239/2022 registered with Police Station Dhad, District Buldhana for the offences

punishable under Sections 302, 120-B 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 village Chandol, District Buldhana till the culmination of the trial.

(iv) 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.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*