



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1702 OF 2024

Laxman @ Lakhan Namdeo Jagtap,
Age : 33 years, Occu. : Private Job,
R/o. Bhaggao, Tq. Vaijapur,
Dist. Chh. Sambhajinagar.

... Applicant

Versus

The State of Maharashtra

... Respondent

.....
Mr. Satej S. Jadhav, Advocate for Applicant.
Mr. P. K. Lakhotiya, APP for Respondent - State.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 07 APRIL 2025

PRONOUNCED ON : 09 APRIL 2025

ORDER :

1. This is an application for regular bail on account of arrest of applicant in Crime No.0206 of 2024 registered at M.I.D.C. Waluj Police Station, District Aurangabad for offence punishable under sections 302, 34, 35, 120-B, 201 of Indian Penal Code and under section 3/25 of the Arms Act and under section 135 of the Maharashtra Police Act.

2. Pointing to the date of arrest as 22.03.2024, learned counsel pointed out that, there is false implication. That, case is based on circumstantial evidence. That, applicant is arraigned as accused no.2. That, there are allegations that he shot deceased.

Learned counsel emphasized that, recovery of arm allegedly used is at the instance of accused no.1. He further pointed out that, only alleged incriminating material is some conversation between accused no.1 and applicant allegedly retrieved from mobile. However, learned counsel further emphasized that, even said mobile was owned by accused no.1. Thus, according to him, on patently weak circumstances, present applicant is arrested. He pointed out that, it is a case of engaging applicant to commit murder by husband of a lady with whom deceased allegedly had relations. Learned counsel pointed out that, such theory developed by investigating machinery has no foundation whatsoever. He pointed out that, alleged shooting also is on pitch dark night. That, nobody has seen applicant arrived or depart from the scene of occurrence. That, investigation is over and charge sheet having been filed in June 2024 and as there are no prospects for matter going for trial as till date learned trial court is only dealing with some applications and orders, learned counsel urges for grant of regular bail.

3. Learned APP opposed on the ground that though case is based on circumstantial evidence, there are strong incriminating circumstances. He pointed out that, there is telephonic conversation between main accused and present applicant and

transcript of the same has been drawn, which according to learned APP clearly points out that applicant acted on the directions and instructions of accused no.1 and he has pulled the trigger from point blank range. That, alleged conversation between main accused and present applicant is of 1200 seconds. Consequently, according to learned APP, there are strong and positive circumstances against present applicant. For all above reasons, he opposes instant application.

4. Heard. Perused the FIR dated 18.06.2024 is at the instance of Sahebrao Narode, father of deceased Sachin. In the initial FIR he has reported that his deceased son was married to one Shila in 2009, but due to marital discord, his wife left him and so his son came to reside with him with the granddaughter. He further reported that, in 2016 his deceased son came in contact with a lady police constable with whom he maintained relations, however, at later point of time, difference arose between them and they both remained disconnected from each other.

5. He further reported that, 15 days back some activity of laying pipeline was undertaken causing damage to front-yard of residents of the locality and informant's deceased son was in the forefront in opposing the same. He further claims that, on 17.03.2024, at around 4:30 p.m., his son went along with Amol

Barshe, Amol Autade, Chavan Patil, Onkar and others for filling the dug pits. Around 7:30 p.m., fire cracker like sound was heard and when everyone came and went in the backyard of the house, he saw his son lying injured. Informant claims that from said above four persons, he learnt that unknown person fired on Sachin, resulting into his death. Hence, on above information report was lodged.

6. Thus, as submitted FIR is against unknown persons. In the initial FIR father has reported about marriage of his son, his first wife leaving due to marital discord and his son coming to reside with his daughter. Then he reported about illicit relations between his deceased son and one police constable, but again due to differences they both had remained disconnected three months back. Then informant has reported about his deceased son leading the movement of opposing removal of front courtyard for laying pipeline work. Informant has allegedly learnt from above named associates, who were in the company of his son after 4:30 p.m. on 17.03.2024 about Sachin being shot by unknown persons.

7. Learned APP pointed out that investigating machinery claims that, accused no.1 and applicant are friends. Accused no.1 engaged present applicant. Wife of accused no.1 allegedly had relations with deceased and therefore to eliminate deceased,

accused no.2 was trained and directed to shoot deceased. According to learned APP, strong and incriminating circumstance is alleged telephonic conversation between accused nos.1 and 2 at the time of incident.

8. Learned counsel for applicant has asserted and made statement across the bar and this is not denied by learned APP that recovery of alleged weapon i.e. weapon is at the instance of accused no.1 that too under section 27 of the Evidence Act. Further statement across the bar that alleged conversation between accused nos.1 and 2 is allegedly retrieved from the mobile is also recovered from accused no.1. Such assertions are also not refuted or denied by learned APP. As stated above, FIR is against unknown person. Incident reportedly took place in the dark. At least charge sheet does not show that companions of the deceased at the spot namely Amol Barshe, Amol Autade, Chavan and Onkar and others gave any physical description of alleged shooter. There is no evidence or material in the charge sheet at least about conspiracy being hatched between present applicant and main accused no.1 to carryout the shooting.

9. Arrest is of March 2024 and almost a year has lapsed. Charge sheet is filed in June 2024. Learned counsel for applicant has placed on record case details, which shows stage of the matter

as argument on Exhibit. Said stage seems to be since August 2024 till 29.03.2025. This suggests that charge is not framed yet. Therefore future course of trial is obviously uncertain. Precisely in the light of such facts and circumstances, application deserves to be allowed. Hence, the following order is passed :-

ORDER

I. The application is allowed.

II. Applicant Laxman @ Lakhan Namdeo Jagtap be released on bail in connection with Crime No.0206 of 2024 registered with M.I.D.C. Waluj Police Station, District Aurangabad, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions :

[a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[c] The applicant shall attend the concerned police station once in every week i.e. on every Monday and maintain personal diary of his attendance till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

(ABHAY S. WAGHWASE, J.)