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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1815 of 2024

Nilesh Sudhakar Savale

Age : 38 Years, Occupation: Labour,

R/o. Samta Nagar, Jalgaon

Taluka & District Jalgaon.

... Applicants

Versus

The State of Maharashtra

Police Station Officer,

Yawal P.S. District Jalgaon.

... Respondent

.....

Mr. Chandrakant P. Patil, Advocate for Applicant

Mr. V.M. Chate, APP for Respondent No.1 – State

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 12 FEBRUARY 2025

PRONOUNCED ON : 13 FEBRUARY 2025

PER COURT :-

1. Present application is filed for grant of regular bail on account of arrest of applicant in Crime No.187 of 2021 (FIR No.508 of 2021) registered at Yawal Police Station, District Jalgaon for offences punishable under Section 363, 302 of the Indian Penal Code (IPC).

2. Pointing to the date of arrest as 28.10.2021, and FIR is of 27.10.2021, learned counsel submits that applicant is behind bars since more than three years. That, investigation is over, and

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charge-sheet is already filed in December 2021 itself. He pointed out that there are allegations of committing murder of children by throwing them in the well, however, according to learned counsel photographs of the well show that there is possibility of accidental falls resulting into death. That, applicant himself was amongst the searching party looking for the children. His such conduct deserves consideration. That, there are variances in the statements of witnesses under Sections 161 and 164 of the Code of Criminal Procedure. That, now investigation is over, and when no recovery or discovery is to be made at the instance of applicant, and trial itself is not commenced since last four years, according to learned counsel, it amounts to long incarceration and delayed trial. For all above reasons, learned counsel seeks relief of bail.

3. While opposing the bail application, learned APP submitted that children of 5 to 7 years old were thrown by him in the well. Victims and applicant are in relation. That, investigation revealed that, in the backdrop of agricultural dispute, minor children are done to death. That, there are witnesses, who had seen applicant playing with the children, after which, they went missing, and were finally found in the

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well. That, as regards the delay in trial, learned APP submitted that applicant was referred for psychiatric analysis, therefore, trial did not proceed. That, now report is received, and therefore, there is possibility of trial commencing soon. For all above reasons, he opposes bail.

4. Heard. Perused the papers. FIR dated 28.10.2021 seems to be at the instance of one Ravindra Madhukar Savale, who has reported Yawal Police Station that, on 27.10.2021, he, his wife and his two children aged 6 and 5 years respectively went to their field in Gut No.365/1 for cultivation and harvesting. While he and his wife were busy in agricultural activity, they had seen their both sons playing beneath a tree, but around 01:00 p.m., children were not found there, and therefore, after conducting search, he lodged missing report. It appears that on dead bodies of minor Hitesh and Ritesh were found in the well and on autopsy, they were found to have met death due to drowning. As pointed out, initial report is of missing, which resulting in the registration of crime for offence under Section 363 against unknown person. Dead bodies were shown to be traced in the well on 28.10.2021. Learned APP has specifically pointed out that there are witnesses, who had seen applicant in the company

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of the children, more particularly, statement of Sunandabai Dagadu Patil is referred to. On visiting the same, it is emerging that, she claims that on 27.10.2021 at 9: 30 a.m., both sons of informant were roaming with present applicant around 12:30 p.m. Thereafter, she, Sunadabai Koli and Dhondabai Koli returned home. While they were returning, she claims to have seen the informant's children with the applicant under a tree, and later on, she learnt that children were missing. There is also a statement of one Ramchandra Sukdev Wankhede to which attention of this Court is invited. However, on going through the same, it seems that his statement is recorded on 30.10.2021, wherein he has stated that, on 27.10.2021, he had personally seen the applicant throwing children in the well at around 01:00 p.m., but, due to fear, he claims to have gone home, and claims to have also passed such information about what he saw personally to the parents of the children, but they did not believe him, and subsequently applicant allegedly gave confession. As stated above, he himself did not promptly reported what he claims to have seen. Rather, statement of this witness, is recorded on 30.10.2021.

5. Papers show that the applicant was required to be referred

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to the authority of J.J. Group of Hospitals for psychiatric evaluation, and finally this Court seems to have received a report dated 13.01.2025 about conducting psychiatric evaluation of the present applicant, and the opinion about mental status is: 'Within Normal Limit'. Probably for want of psychiatric evaluation report, there seems to be delay in trial even when charge-sheet is shown to be filed in December 2021 itself. However, taking the above material into consideration, *prima facie*, case being based on circumstantial evidence, and also considering long incarceration and further taking into account that no immediate prospects are shown of matter going for trial, applicant succeeds. Hence, the following order:

ORDER

- (i) The application is allowed.
- (ii) Applicant Nilesh Sudhakar Savale, be released on bail in connection with Crime No.187 of 2021 (FIR No.508 of 2021) registered at Yawal Police Station, District Jalgaon, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.

**ABHAY S. WAGHWASE,
JUDGE**