



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1907 OF 2024

Bhausahab Govindrao Patil
Age : 65 years, Occu : Agri.,
R/o. Karajkheda,
Taluka and District Dharashiv. ... Applicant

Versus

The State of Maharashtra
Through Police Station Incharge,
Bembali Police Station,
District Osmanabad. ... Respondent

.....
Mr. Abhijit S. More, Advocate for the Applicant
Mr. S. B. Narwade, APP for Respondent-State
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 10.01.2025

Pronounced on : 13.01.2025

ORDER :

1. Present application has been moved on account of arrest of applicant in Crime No. 129 of 2024 registered at Bembali Police Station, District Dharashiv (Osmanabad) on 26.05.2024 for offence under Section 302 r/w 34 of IPC.

2. Learned counsel submitted that applicant is arrested in above offence on 26.05.2024. That, there are allegations that, he and his

other son have done his own son to death by stoning him. There are allegations that there was dispute between deceased on one hand and father and other son on the other hand in the backdrop of partition. Learned counsel pointed out that there is no direct evidence in support of alleged allegations. Implication is on alleged confession given during memorandum of disclosure. Though prosecution claims that there is evidence of daughter-in-law, it is also in the form of extra judicial confession, which, according to learned counsel, cannot be considered. That, charge sheet is already filed, however, as it would long time to frame charge and matter going for trial, as applicant is behind bars since more than 7 months, relief of regular bail is urged for.

3. While opposing the bail application, learned APP pointed out that admittedly, there was dispute over partition. That, deceased was working at Pune and he had come home. He was found dead with homicidal injuries. Daughter-in-law of applicant has given statement about deceased returning from Pune and demanding money for purchasing car and present applicant father refusing and asking him to purchase it on his own earnings, upon which, deceased demanded partition, resulting into quarrel. It is pointed out that offence is serious. Death has taken place in the house. Learned APP pointed out

that deceased had been to enjoy party with his friends and in their statements also, it has come about quarrel between son and father. Therefore, according to learned APP, there being strong and incriminating evidence, he prays to dismiss the application.

4. Heard. Present FIR seems to be at the instance of wife of present applicant, namely, Surekha Bhausahab Patil, who is also mother of deceased. Report is lodged on 26.05.2024. She has reported that on 24.05.2024, her son Sandesh went to attend a party and left the house. At around 9.00 p.m., she herself, applicant husband, her other son and his wife went to sleep. She also informed that around 12.00 midnight, deceased son returned home, took mattress and went out to sleep on outside *ota*. She claims that on 25.05.2024 at 6.30 a.m., when she opened the door for sweeping the courtyard, she came across son lying in pool of blood and as such, she lodged report that unknown persons for unknown reasons, killed her son. On above report, crime seems to have been registered, but on 26.05.2024 i.e. on next day.

5. Death Information Report shows that deceased died due to 'head injury, injury to vital organ brain'. There is no direct eye witness. Daughter-in-law, who is wife of accused Preetam, has given

statement on 26.05.2024 about quarrel taking place between deceased and his father on account of partition, however, in her statement, when such quarrel took place, is not getting clear, as both, informant as well as this witness, speak of deceased returning from Pune since one month. Neither of the two speak that on the night after attending party, when deceased returned, there was any quarrel in the backdrop of partition.

6. Learned APP, though admits that there is no direct eye witness to the occurrence, he has pointed that there are statements of girlfriend of deceased and his other friends with whom deceased attended party, and they all speak about hearing from deceased about quarrel between father and son and father refusing to comply with the demand of partition and car. However, these statements are apparently recorded on 27.05.2024 and 01.06.2024 respectively. Informant mother herself has reported that when she woke up in the morning of 25.05.2024 and opened the door, she came across her son lying in pool of blood. Resultantly, *prima facie* it is emerging that, there are allegations of deceased insisting for purchasing car and also partition and his father, i.e. present applicant, denying to comply. Though statements of friends of deceased reflect that deceased allegedly told them that his father and brother quarreled with him,

exactly what happened after deceased allegedly returned from party, is not getting clear.

7. Now investigation is over. There is no direct evidence. It appears that case is based on circumstantial evidence. Therefore, as applicant, who is said to be 65 years of age, is behind bars since May 2024, and when nothing is shown to be recovered or discovered at his end, relief as prayed deserves to be granted. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicant Bhausahab Govindrao Patil, be released on bail in connection with Crime No. 129 of 2024 registered at Bembali Police Station, District Dharashiv (Osmanabad), on executing Personal Bond of Rs. 15,000/- with one surety in the like amount.
- III. The applicant shall not tamper prosecution evidence.

[ABHAY S. WAGHWASE, J.]

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