



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

BAIL APPLICATION NO. 1986 OF 2024

Maroti Rama Rathod
Age: 44 years, Occu.: Agri.,
R/o. Waghi, Tq.Jintur,
Dist. Parbhani.Applicant
(Accused no.1 as shown in chargesheet)

Versus

1. The State of Maharashtra
Through Officer Incharge,
Police Station Bamni,
Dist.Parbhani.
2. The Superintendent of Police,
Parbhani, Dist.Parbhani.Respondents

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Advocate for Applicant : Mr. Sudarshan J. Salunke
APP for Respondents : Mr.VM.Chate
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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 15 JANUARY, 2025
PRONOUNCED ON : 17 JANUARY, 2025**

ORDER :

1. Applicant seeks grant of regular bail as a result of his arrest in Crime no.0062 of 2024 registered at Bamni Police Station, District Parbhani for offence under Sections 302, 120B, 109, 34 of the Indian Penal Code.
2. Learned counsel for the applicant pointed out that applicant is arrested in above crime on 05-04-2024. He emphasized that however alleged occurrence is of 31-03-2024. That wife of applicant was found

dead in the field. That on report of brother of deceased, above crime has been registered. Learned counsel pointed out that such brother, who is informant, is a resident of distinct village and FIR is on hearsay information allegedly received from his nephew i.e. minor son of applicant and deceased. That statement of said minor namely Pradeep is not recorded by Police till date. He pointed out that, only information passed by the minor was that his father went to supply Goa Gutkha to his mother in the field, but such information is of earlier date. Thus, according to learned counsel, such information cannot be itself sufficient to implicate the applicant. Learned counsel submitted that there was no previous complaint of any sort anywhere. Subsequently, allegations are levelled that applicant had extra marital affair and in that backdrop, deceased was done to death. However, according to learned counsel, there is no direct evidence nor incriminating or circumstantial evidence in support of theory deduced by prosecution. He pointed out that applicant was arrested from his house. That there was no complaint at the time of inquest. Rather AD was filed by another cousin, but at no point of time till 05-04-2024 i.e. till 6th day of registration of FIR, anybody raised any complaint against present applicant. Learned counsel pointed out that there is statement of neighbouring agriculturist about merely seeing applicant coming to the field, but there is no further evidence about he to be in company of deceased or having left the field. Learned counsel pointed out that infact from the FIR itself, it is emerging that applicant went for purchasing of

clothes for some function at other place on the date of incident. There, he allegedly met another cousin of deceased and there it is said to be extra judicial confession to said cousin. But even after deceased was found dead on 31-03-2024, there was no reporting by such cousin about receiving any extra judicial confession. Thus, according to learned counsel, there is no convincing or incriminating evidence against applicant and that case is entirely based on circumstantial evidence. That, he is behind bars since April, 2024 i.e. for last more than eight months. That there is no recovery to be made at his instance. Hence, he prays for grant of regular bail.

3. While opposing above application, learned APP pointed out that just before death, there was quarrel between applicant and his wife and threats were given by present applicant to his wife in the backdrop of his illicit relations with another lady. Learned APP pointed out that on relevant date, deceased though was found dead in their own field, neighbouring witness namely Meerabai had seen applicant coming in the field. Thus there is circumstance of last seen together. That there was death by strangulation. That even son of applicant and deceased passed information to informant uncle about father visiting field, where his deceased mother was already available. That there is statement of cousin of deceased to whom there was extra judicial confession. Thus, according to learned APP, there is a strong and incriminating evidence coupled with motive and hence, he opposes relief of bail.

4. Heard. Perused the FIR at the instance of Rahul Chavan, resident of Malegaon, Tq.Mantha, Dist.Jalna. He claims that his deceased sister Shilpa was married to present applicant 22 years back and she is given at Waghi, Tq.Jintur. He informed that on 27-03-2024, when he returned home from work, he learnt from his wife Jayashri about quarrel going on between his deceased sister and her husband and therefore, he gave his sister a call and questioned her about the quarrel. He claims that, she conveyed on phone that her husband has love affair with a lady and they continuously talk on phone and that at the instance of said lady, her husband beat her and he also expressed his desire to marry that lady and asked her to either leave the house or to commit suicide and on such count, there used to be quarrel. He informed that, when he suggested to his sister that whether he should come to give understanding to her husband, his sister allegedly told that if he comes, her husband said that he would commit suicide. On 31-03-2024, he claims that at around 11.30 hours while at work, he gave call to his wife and asked her to make telephone call to his sister to enquire her well being and at that time, mobile of his sister was found to be switched off. At around 18.30 hours informant received call from Gurudev Chavan, his cousin, giving news of Bebabai found dead in the field. Informant claims that when they all went, it was learnt from his nephew namely Pradeep that deceased left the house alone at 09.30 a.m. for plucking cotton and his father also went there

to supply her Goa Gulkha and thereafter, immediately his father came back and went to Charthana for purchase of clothes and at around 04:00 p.m. incident of death of Bebabai came to light. Informant claims that seeing the body of deceased, he became sure that his brother-in-law and the lady with whom he had affair, conspired and throttled his sister as she had become an obstruction for them.

On above report, crime seems to have been registered, but apparently on 05-04-2024.

5. Thus, from above material discussion in the FIR, it is emerging that marriage between applicant and deceased Bebabai is more than two decades old. Informant brother apparently resides at a distinct place than the place of his deceased sister and present applicant. Initially applicant claims that on 27-03-2024 when he had telephonic talk with deceased sister, he allegedly learnt about affair between her husband i.e. present applicant and one lady and quarrel was going on between couple on such backdrop. Then it appears that deceased was found dead in the field at 04:00 p.m. on 31-03-2024. However, FIR is registered on 05-04-2024 by brother of deceased Bebabai. Initially, before inquest, AD was registered. Informant brother claims

about receiving information from his nephew Pradeep about initially his deceased mother going to the field for plucking cotton and then his father allegedly went to supply Goa Gutkha to his mother and from there he again came home and further went to Charthana.

6. Learned APP pointed out that there is statement of immediate neighbouring agriculturist i.e. Meerabai and she in her statement dated 05-06-2024 informed about interacting with applicant and on being questioned by her, applicant telling her that deceased had gone alone to the field and he is going to give her sachet, but according to her, he was not seen returning back on the same way on which he came. It seems that minor son of applicant and deceased namely Pradeep has allegedly told informant about his father coming home and proceeding towards Charthana. Therefore, apparently it appears that prosecution is trying to catch-hold of theory of last seen together. Another witness namely Gurudev Shankar Chavan, who allegedly received extra judicial confession from applicant on 31-03-24 is cousin of informant, but he seems to have given statement to Police on 06-04-2024 and not immediately on 31-03-2024 after allegedly receiving extra judicial confession at the instance of applicant. Thus, here case apparently seems to be based on circumstantial evidence.

Prosecution claims that deceased Bebabai was found to have met death due to strangulation.

On Court query, learned APP could not answer what was the ligature and whether it was seized. Applicant is behind bars since more than eight months.

7. In the light of above discussion, when there is no plausible explanation for further detention, relief as prayed deserves to be granted. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Maroti Rama Rathod be released on bail in connection with Crime no.0062 of 2024 registered with Bamni Police Station, District Parbhani on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not enter village Waghi, Tq.Jintur, Dist. Parbhani. till conclusion of trial.
- (iv) Applicant shall not tamper prosecution evidence.

(**ABHAY S. WAGHWASE**)
JUDGE