



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

BAIL APPLICATION NO. 2028 OF 2024

Rohit s/o Subhash Rathod
Age: 27 years, Occu.: Labour,
R/o. Shashtri Nagar, Omerga,
Tq.Omerga, Dist.Osmanabad.Applicant

Versus

The State of Maharashtra
Through Police Station Officer,
Omerga Police Station,
Tq.Omerga, Dist.Osmanabad.Respondent

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Advocate for Applicant : Mr. Shailendra S. Gangakhedkar
APP for Respondent : Mr.C.V.Bhadane
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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 18 MARCH, 2025
PRONOUNCED ON : 19 MARCH, 2025**

ORDER :

1. Present application is for grant of regular bail on account of arrest of applicant in crime no.0188 of 2024 registered at Omerga Police Station, Dist.Osmanabad for offence under Sections 302, 201 read with 34 of Indian Penal Code (IPC).

2. Learned counsel pointed out that applicant is arrested in above crime on 18-03-2024 and he is behind bars since then. That, there are mere allegations of slapping. That, no article of any nature is said to be put to use. He pointed out that infact accused and

deceased were friends, who consumed liquor together and they had also eaten “Vimal” at a Pan Stall shortly before the quarrel, which further resulted in slapping and deceased falling. Learned counsel submitted that applicant himself tried to wake accused, who fell down under influence of liquor. That, death is said to be due to head injury. That, there are no external injuries. He pointed out that even column no.1 of the post mortem report suggests one injury and so he submitted that there was no motive and incident being taken place under influence of liquor and all of sudden, which was fall out of quarrel, there was no premeditation also. He pointed out that now investigation is over and chargesheet is already filed on 12-06-2024. As no further recovery or discovery is to be made, learned counsel seeks grant of bail.

3. Learned APP opposed application on the ground that crime is registered for causing death. That, apart from CCTV footage, there are two witnesses, who had seen the occurrence. Even learned APP pointed out that death is due to head injury and complication arising out of the same. Thus, according to learned APP, offence is serious and hence, applicant does not deserve relief of bail as there is also possibility of misuse.

4. Heard. Perused the papers and FIR dated 18-03-2024. Informant Pandurang Manohar Rakhelkar lodged report that on 18-03-2024, he learnt from his cousin about his brother Purushottam @ Sunil lying dead near Vishwa Bar, Omerga and accordingly, he reached there and got information that after carrying out panchanama, Police has taken dead body of Purushottam @ Sunil to Civil Hospital for conducting post mortem. Accordingly, he reached Civil Hospital and found his brother dead. He claims that he and his relatives went towards said Vishwa Bar and there, on interaction with Pan Stall Owner Nandu Rathod, he learnt that in the night of 17-03-2024, present applicant and deceased had come to the Pan Stall and purchased "Vimal" for eating and after some time, there was heated exchange of words between them. Informant claims to have learnt from said Nandu Rathod that present applicant pushed his brother and then gave slaps and kicks as a result of which, Purushottam @ Sunil fell down and further became unconscious. On above report, crime seems to have been registered.

5. *Post mortem* report to which attention is invited, reflects provisional cause of death issued about "complications following head injury". As pointed out, in column no.17, there is mention of

abrasions on the face and chin only. Now, investigation is said to be over and chargesheet is also filed in June, 2024 itself.

Prima facie it is emerging that deceased and applicant were in each others company before going to the scene of occurrence. As submitted, allegations are of only pushing, giving slaps and kicks. Therefore, obviously when there is no allegation of use of any article, there is no question of any further recovery or discovery. Taking into account the material available on record, when there are no immediate prospects of matter going for trial, to avoid pre-trial long incarceration, application deserves to be allowed. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Rohit S/o. Subhash Rathod be released on bail in connection with Crime no.0188 of 2024 registered with Omerga Police Station, Dist.Osmanabad, 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