



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2050 OF 2024

Yogesh s/o Shivling Kalyankar
Age 21 years, Occ. Pvt. Service,
R/o Bajajnagar,
Tq. and Dist. Ch. Sambhajinagar. ... Applicant

Versus

The State of Maharashtra
Through its MIDC Waluj Police Station,
Aurangabad. ... Respondent

.....
Mr. Vithal M. Jadhav, Advocate for the Applicant
Mr. V. M. Chate, APP for the Respondent-State
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 06.01.2025
Pronounced on : 07.01.2025

ORDER :

1. Applicant herein seeks enlargement on bail in crime no. 0647 of 2024 registered at M.I.D.C. Waluj Police Station, District Aurangabad for offence under Section 103(1) and 3 (5) of the Bharatiya Nyaya Sanhita [BNS].
2. Pointing out that applicant is arrested on 12.07.2024, learned counsel for the applicant submitted that entire case is based on circumstantial evidence i.e. sole circumstance of last seen together. That, except such week circumstance, there is no other convincing evidence. It is submitted that, FIR is at the instance of police officer

who had received information on telephone. No one has seen applicant and deceased together, nor there is any witness seeing any assault at the hands of applicant. That, alleged dead body was noticed lying in a quarry, but on the next morning. He pointed out that, apparently witnesses are not consistent in statements under Sections 161 and 164 of Cr.P.C. In this regard, learned counsel took this Court through the statements of Ankush Mandale and Manish Lite. He pointed out that in fact, deceased himself was drunk. Postmortem report shows cause of death due to head injury. That, besides present applicant, one more accused is implicated but he is juvenile. That, there are allegations of assault by means of tile, but who amongst these two hit it is not demonstrated. Now applicant is behind bars since more than six months. There is no concrete reason to continue his detention and hence he urges for grant of regular bail.

3. Learned APP, while opposing, pointed out that in the statement of father of deceased, it was revealed that on the night of 11.07.2024, he had made phone call to his son at around 10.30 p.m. and his son informed about he to be in the company of Yogesh (present applicant) and juvenile accused Rushikesh. That, father has alleged that in the backdrop of demand of money for liquor, above named boys assaulted his son and committed his murder. Learned APP pointed out that

there is evidence in the form of CDR and SDR. For all above reasons, application is opposed.

4. Perused FIR and papers. Apparently, M.I.D.C. Waluj Police registered above crime on report of one Dinesh Ramchandra Ban on 12.07.2024 at 16.34 hours. Informant police officer states that around 8.30 a.m. on 12.07.2024, telephonic information was received about dead body lying in the quarry. Accordingly, visit was paid and on his report, above crime is registered against unknown person for committing murder of Shailesh for unknown reason. However, on statement of father, which apparently seems to be recorded on 26.07.2024, i.e. almost after two weeks of death of Shailesh coming to light, names of present applicant and another juvenile have surfaced. Papers placed by learned APP, more particularly CDR, shows that there is telephonic call from father to deceased son and that time, father claims that, he questioned the whereabouts of his son, who allegedly told him that he was in the company of present applicant and Rushikesh. CDR placed on record shows that such conversation between father and deceased took place around 10.22 p.m. Deceased was found dead in the morning and it was duly reported to informant police officer at 8.30 a.m.

5. In statement of father recorded on 26.07.2024, he stated that he learnt from police that his son was done to death in the backdrop of drinking liquor. Papers placed before this Court does not contain anything in this direction. There is no foundation in the entire charge sheet in this regard. Father has not alleged any animosity between his deceased son and present applicant on any count. One more accused, but a juvenile, was said to be also present with deceased and present applicant. Information to this extent is coming from father in his statement recorded after almost two weeks. Therefore, with such quality of evidence, when charge sheet is filed, considering the age of the applicant and case based on circumstantial evidence, relief as prayed deserves to be granted. Hence, following order is passed :

ORDER

- I. The application is allowed.
- II. Applicant Yogesh s/o Shivling Kalyankar be released on bail in connection with crime no. 0647 of 2024 registered at M.I.D.C. Waluj Police Station, District Aurangabad 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.]