



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

**BAIL APPLICATION NO.2141 OF 2024**

Sunil S/o Dayanand @ Jaykar Mandale

Age: 21 years, Occu.: Labour

R/o. Talmod, Tq. Omerga

District Osmanabad

... Applicant

Versus

The State of Maharashtra

Through Omerga Police Station,

Tq. Omerga, District Osmanabad

... Respondent

.....

Ms. Shhetal V. Salunke, Advocate for Applicant

Mr. V.M. Jawalre, APP for Respondent – State

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**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 05 FEBRUARY 2025**

**PRONOUNCED ON : 07 FEBRUARY 2025**

**ORDER :**

1. The present application is filed for grant of regular bail on account of arrest of applicant in Crime No.0491 of 2022 registered at Omerga Police Station, District Osmanabad for offences punishable under Sections 302, 364, 201 read with Section 34 of the Indian Penal Code (IPC).

2. Pointing to the date of arrest as 14.09.2022, learned counsel pointed out that applicant is behind bars since last two years. That,

though trial has commenced, only three witnesses are examined till this date. That, there is said to be listed 37 witnesses proposed to be examined by the prosecution. That, FIR is registered on hearsay information. That, alleged occurrence is said to be due to previous enmity. Learned counsel pointed out that the applicant has already been incarcerated for a significant period, and there are no immediate prospects of the matter being concluded. For all above reasons, learned counsel prays for grant of bail.

3. Learned APP, who opposed the application, pointed out that there is a brutal murder. That, there is video shooting of the incident in mobile. That, there is confessional statement before the learned Magistrate, and therefore, when trial is already in progress, learned APP opposed the relief as prayed.

4. Heard both the sides. Perused the papers. FIR is at the instance of one Lakan Namdev Mandale. He seems to be brother of deceased Deepak. Substance of the FIR is that on 13.09.2022, there was quarrel between his brother Deepak and the present applicant Sunil. He reported that, at 09:00 p.m., present applicant, Mangesh Mandale, Omkar Mandale came and took his brother on motorcycle. At around 10:30 p.m., as his brother did not return, he made telephone call to present applicant and claims that, it learnt from present applicant that they are all at

Sadhana Dhaba. As his brother did not return till 12:00 hours, he went to sleep. On next morning, i.e. on 14.09.2022, it was learnt that a dead body lying near the bridge of Talmod village, and therefore, he went there and found that, it was a dead body of his brother Deepak. Informant further claims that they all went to the spot, which is a tin godown and there he met Shrikrushna Jadhav, who told that, when he, Sagar Mane and Aakash Rathod were sleeping, at that time, present applicant, Mangesh Mandale, Omkar Mandale brought deceased on motorcycle. At that time, deceased had no shirt on his person, and he was unable to walk properly. He allegedly told that three of them took the deceased in the tin shed and started assaulting him with kicks and fist blows. Informant claims that, Shrikrushna also informed that, when Sagar and Aakash went to intervene, those persons rushed to them and so out of fear, they did not intervene.

5. Learned APP has invited the attention of this Court to the statement of Aakash and Shrikrushna from whom information was received by informant, and their statements recorded under Section 164 of the Code of Criminal Procedure. They both are consistent about present applicant and two others bringing deceased Deepak on motorcycle in bare clothes, and deceased being taken in the tin shade and beaten. Thus, both these witnesses have stated about seeing the assault and on their intervention, they are prevented. Shrikrushna also gave a

statement before the learned Magistrate that, present applicant had asked to shoot the video, and as such, video shooting of the assault was done. Learned APP submits that such material is seized and sent for analysis. On visiting the postmortem report, it is emerging that, deceased died due to cardiopulmonary arrest due to hypovolemic shock secondary to multiple major bleeding injuries on head (scalp) and neck.

6. Learned counsel press into service ruling of the Hon'ble Apex Court in the case of *Manish Sisodia Vs. Directorate of Enforcement (2024 INSC 595)*, she has relied on observations in paragraphs 51 to 53 and pointed out that Hon'ble Apex Court has held that, merely because the offence is grave or serious, when there is no progress in the trial, and there are no prospects of conclusion of trial, applicant is entitled for bail, and therefore, according to her, facts of the case before the Hon'ble Apex Court and the case in hand are identical. However, this Court is not ready to accept the above submissions.

In the case relied on before the Hon'ble Apex Court, proceedings were for commission of offence under the provisions of Corruption Act and under Sections 420, 201 and 120-B of IPC, and Money Laundering Act. Here, it is not so. There is a grave offence and as stated above, deceased was assaulted with deadly weapon inflicting more than 30 injuries. Moreover, there is said to be videography of the assault being done. Therefore, in light of the aforementioned material on record,

neither the submissions made nor the rulings of the Hon'ble Apex Court cited in this matter can be taken aid of in this matter.

6. Taking the above material into consideration, though applicant is behind bars since long, and as already trial is underway, this Court is not inclined to grant relief as prayed. Hence, the following order.

**ORDER**

Application is rejected.

**ABHAY S. WAGHWASE,  
JUDGE**

S P Rane