



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

BAIL APPLICATION NO. 2017 OF 2024

Rahul S/o Prakash @ Babu Sarode
Age: 32 years, Occu.: Labour,
R/o. Kalgaon, Tq.Umari,
Dist.Nanded.

....Applicant
(Original Accused)

Versus

The State of Maharashtra
Through Police Station Officer,
Umari Police Station,
Tq.Umari, Dist.Nanded.

.....Respondent

.....
WITH

CRIMINAL APPLICATION NO. 4681 OF 2024 IN BA/2017/2024

Mahesh s/o Anandrao Nandgaye
Age: 28 years, Occu.: Agri.,
R/o. Kalgaon, Tq.Umri, Dist.Nanded.

....Applicant
(Orig. Informant)

Versus

1. Rahul S/o Prakash @ Babu Sarode
Age: 32 years, Occu.: Labour,
R/o. Kalgaon, Tq.Umri,
Dist.Nanded.

2. The State of Maharashtra
Through Police Station,
Umri, Dist.Nanded.

.....Respondents

.....
Advocate for Applicant in BA/2017/2024 : Mr. S. S. Gangakhedkar
APP for Respondent : Mr.VM.Jaware
Advocate for Assist to PP : Mr.H.I.Pathan

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 11 FEBRUARY, 2025

ORDER :

1. This is regular bail application on account of applicant's arrest in crime no.103 of 2024 registered with Umari Police Station, Dist.Nanded for offence under Sections 302, 323, 504, 506, 143, 147, 148, 149, 201 read with 34 of the Indian Penal Code (IPC) and under Section 4, 25 and 27 of the Arms Act.
2. Criminal Application No.4681 of 2024 is filed by the informant seeking permission to assist the Public Prosecutor. Permission is granted. Said application is allowed and disposed of.
3. Pointing to the date of arrest of applicant as 12-03-2024, learned counsel submitted that infact crime is of 09-03-2024. That, there are allegations of some quarrel taking place on 07-03-2024, but the said matter was settled. That, there are allegations that on 08-03-2024 in the evening at 06:00 p.m., there was quarrel between accused Balaji Dhutire and Madhav Dhutire on one hand and deceased Umakant Nandgaye on the other hand. In that episode also there are allegations of mere abuses and giving kick and fist blows. That, on 09-08-2024 deceased Umakant was said to be found dead in his field. That, there is no direct evidence. That, case is based on circumstantial evidence. That, no role is attributed to applicant in

quarrel of either 07-03-2024 or 08-03-2024. However, applicant is named in the FIR alongwith five others. It is pointed out that investigation is over and chargesheet is also filed. That, applicant is behind bars since March 2024. That, there are no immediate prospects of matter going for trial and hence, for above reasons, learned counsel for applicant prays for grant of relief.

4. Learned APP strongly opposed the application on the ground that there is strong incriminating circumstances coupled with extra judicial confession. That, there is recovery of blood stained clothes at the instance of present applicant and therefore, his involvement is established in a case of murder. There being grave offence, learned APP opposed grant of relief.

5. After hearing the submissions and on going through the FIR dated 09-03-2024 at the instance of Mahesh Anandrao Nandgaye, it is emerging that he is cousin of deceased Umakant, who happens to be his uncle's son. He has reported that on 06-03-2024, Anandrao Nandgaye was called by Yeshwant Dhutire questioning why deceased took machine meant to kill Pigs without consent. It is alleged that on 07-03-2024, on similar count, there was quarrel and matter was resolved. He further reported that on at 06:00 p.m. on

08-03-2024, there was quarrel between deceased Umakant and Balaji Yeshwant Dhutire and Madhav Yeshwant Dhutire and at that time, it is alleged that apart from abuses and kick and fist blows, there was threat to kill. That, said dispute was also resolved by villagers named in the report. It is further stated that on 09-08-2024, when deceased did not return home from the field, informant and his cousin Shivcharan Uddhava Nandgaye both went to the field and there they noticed Umakant lying in the pool of blood and therefore, on the above report crime seems to have been registered against six persons including present applicant.

Post mortem report shows that deceased Umakant died due to cut throat and multiple stab injuries over neck. As pointed out present applicant is named in the FIR but his role is not reflected in the alleged episode dated 07-03-2024 and 08-03-2024. Only names of accused Balaji Dhutire and Madhav Dhutire are reflected. Admittedly, case seems to be based on circumstantial evidence.

6. Learned APP pointed out that there is extra judicial confession to one Ramesh Govind Kamble and there is memorandum of disclosure.

On visiting statement of Ramesh Kamble, it seems that accused

Purushottam Sarode is his son-in-law and Ramesh claims that on 09-03-2024, he learnt that there was quarrel with one boy and he allegedly told that he has been done to death. Apparently alleged disclosure dated 09-03-2024 is reported by Ramesh to Police on 24-05-2024 i.e. almost after more than two months. Therefore, taking the same into consideration and even so called confession is against Purushottam and no specific role of applicant is coming on record either in the FIR or in the statement of so called witnesses coupled with aspect that chargesheet is filed in June 2024 itself, relief as prayed deserves to be granted. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) Applicant Rahul S/o Prakash @ Babu Sarode be released on bail in connection with Crime no.0103 of 2024 registered with Umari Police Station, Dist.Nanded on executing Personal Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.
- (iv) Criminal Application No.4681 of 2024 is disposed of.

(ABHAY S. WAGHWASE)
JUDGE