2025:BHC-AUG:593

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2237 OF 2024

Vinod @ Balu Vishwanath Nikalje
Age: 35 years, Occu.: Labour,
R/o. Infront Shakiyanagar,
Bankar Hall Bhausingpura,
Dist.Aurangabad. ….Applicant

Versus

The State of Maharashtra
Through Police Station Officer,
Cantonment (Chawni) Police Station,
Tq. and Dist.Aurangabad. …..Respondent

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Advocate for Applicant : Mr. Kiran P. Rathod
APP for Respondent : Mr.S.B.Narwade

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 08 JANUARY, 2025
PRONOUNCED ON : 10 JANUARY, 2025

ORDER :

1. Instant application is for regular bail in Crime no.0364 of 2024 registered at Cantonment Police Station Aurangabad for offence under Sections 103(1), 115(2) and Section 3(5) of the Bharatiya Nyaya Sanhita and on account of rejection of bail application by learned Additional Sessions Judge, Aurangabad.

2. Taking through the FIR and papers, learned counsel pointed out that, in all three accused were chargesheeted. That present applicant is falsely implicated. That his role is not defined or crystallized. He pointed out that alleged occurrence is of 17-07-2024 and FIR is lodged on hearsay information i.e. from a witness namely Amol Bachke. Learned counsel pointed out that story reported by informant, which he received from this witness, defers from the version given by such witness when his statement was recorded under Section 161 of the Code of Criminal Procedure. Learned counsel pointed out that applicant had no motive. That now investigation is over. That nothing is to be recovered or discovered from applicant and hence, as applicant is behind the bars from July, 2024, learned counsel prays for grant of regular bail.

3. While opposing bail application, learned APP pointed out that deceased was in the company of present applicant and two others. That deceased was done to death in the backdrop of accusations of illicit relations. He pointed out that deceased suffered homicidal death due to multiple injuries and learned APP took this Court through column no.17 of the post-mortem report as well as injury certificate. Thus, according to learned APP, serious offence is

committed and applicant is named in the FIR itself and that investigation revealed all three accused committing murder of deceased Dagadu Muralidhar Sadaphule.

4. Heard both the sides. Perused the FIR as well as papers. Report is at the instance of brother of deceased. He claims that when he returned from work in the evening on 17-07-2024, Chhawani Police came to his house at around 01:00 a.m. alognwith one Amol Bachke and Guddu Dabhade and informant was told that Nirmalabai Gaikwad, present applicant and Kailash Deore were seen assaulting deceased Dagadu. On such information, above crime seems to have been registered against Kailash Ramdas Deore, present applicant and Nirmalabai. From the investigation, it is emerged that in the backdrop of illicit relationship between Nirmalabai and both accused no.1 Kailash as well as deceased, occurrence has taken place. Statement of Amol Bachke and Guddu Dabhade are also recorded by Police.

5. Learned counsel for the applicant took this court through the statements of Amol Bachke and Guddu Dabhade and submits that

from their statements, role of present applicant is not at all getting crystallized and there are apparently allegations against Nirmalabai and Kailash only.

6. In view of such submission, if statements of Amol Bachke and Guddu Dabhade, whose names are given by informant for passing information to him, it is apparent that their statements are recorded by Police on 08-08-2024. Even when informant claims that these two persons accompanied Police and given information to informant, these two witnesses merely named accused Nirmalabai and Kailash to be present at the spot. As pointed out, these witnesses have not defined role of present applicant. Theory put-forth by prosecution is that deceased was done to death on account of alleged illicit relationship between accused Nirmalabai, deceased as well as Kailash.

7. Therefore, taking such material into consideration, when inspite of chargesheet, role of applicant in above offence is not getting clear, relief as prayed deserves to be granted. Hence, the following order :

ORDER

(i) Application is allowed.

(ii) Applicant Vinod @ Balu Vishwanath Nikalje be released on bail in connection with Crime no.0364 of 2024 registered with Cantonment (Chhawani) Police Station, Aurangabad on executing Personal Bond of Rs.25,000/- with one surety in the like amount.

(iii) Applicant shall not tamper prosecution evidence.

(ABHAY S. WAGHWASE)
JUDGE

SPT