



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

BAIL APPLICATION NO. 2371 OF 2024

Shaikh Atiq Shaikh Rafiq
Age: 27 years, Occu.: Labour,
R/o. : Dargah Road, Gous Colony,
Parbhani, Tq. & Dist.Parbhani.

....Applicant
(Orig. Accused)

Versus

The State of Maharashtra
Through Police Station, Sonkhed, Nanded.Respondent

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Advocate for Applicant : Mr. Hamzakhan I. Pathan
APP for Respondent : Mr.C.V.Bhadane

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 04 FEBRUARY, 2025
PRONOUNCED ON : 05 FEBRUARY, 2025**

ORDER :

1. Applicant prays for grant of regular bail on account of crime no.0008 dated 13-01-2024 registered at Sonkhed Police Station, Dist.Nanded for offence under Section 302 of the Indian Penal Code (IPC).

2. Learned counsel pointed out that applicant is arrested on

13-01-2024. That, there are allegations that applicant was working as a labour alongwith two more labours on a construction site. That, there was sudden quarrel between applicant and deceased and as such there was no motive. That, there are allegations that on relevant day, applicant, deceased and one Alliyarkhan together consumed liquor. That, said Alliyarkhan reported about quarrel between applicant and deceased to the Contractor. However, according to learned counsel, said Alliyarkhan, who was third labour, was not present during the quarrel. According to learned counsel, case is based on circumstantial evidence and there is nothing to show that applicant is responsible for death of deceased Mahadu. That, now investigation is over. That, applicant is behind bars since long and as there are no immediate prospects of matter going for trial, learned counsel for the applicant seeks relief of bail.

3. Learned APP strongly opposed on the ground that brutal murder has been committed. That, there are statement of other companion labour namely Alliyarkhan, who had seen applicant and deceased quarreling and shortly after that, deceased died. That, Shaikh Taher, Contractor, to whom quarrel was reported, has also given statement about he receiving a phone call from Alliyarkhan and

he further contacted sister of deceased and her husband and they all went to Government Hospital, Vishnupuri and there they came across dead body of the deceased. Learned APP pointed out that applicant has taken selfie photographs with the dead body. Therefore, with such material on record and as grave offence is committed by the applicant, learned APP seeks rejection of the application.

4. After considering the above submissions and on going through the papers, it is seen that FIR is by sister of deceased. She has reported that her deceased brother was working with Contractor Shaikh Taher in erecting water tank at village Harsad. She has received information from Contractor about quarrel of her brother with present applicant and her brother to be injured and thereafter, when she went to the Government Hospital, Vishnupuri, she learnt that her brother was done to death and on her above report, crime seems to be registered.

5. Here, statements of Contractor Shaikh Taher and another labour Alliyarkhan are relevant. They both have given statements under Section 161 of the Code of Criminal Procedure (Cr.P.C.) as well as under Section 164 of the Cr.P.C.. On visiting the same, it is

emerging that on the intervening night of 12-01-2024 and 13-01-2024 deceased, applicant and Alliyarkhan dined together and thereafter, Alliyarkhan left and only deceased and applicant were stated to be together. Contractor Shaikh Taher claims to have received a phone call from Alliyarkhan about quarrel between applicant and deceased and sought his indulgence.

6. On visiting post mortem report, it is emerging that deceased has died due to “head injury” and there are as many as 19 injuries on various parts of the dead body. Therefore, taking the manner of assault into consideration, though applicant is behind bars since January 2024, and also taking into consideration the statement of learned APP across the bar that there are selfie photographs of present applicant with dead body, which are reported to be sent to the Forensic and Electronic Experts, this Court is not inclined to grant any relief. Hence, the following order :

ORDER

Application is rejected.

(ABHAY S. WAGHWASE)
JUDGE