



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2402 OF 2024

Sahil Sherkhan Pathan,
Age : 20 years, Occ: Nil,
R/o: Gajanan Colony Navnagapur,
Taluka and District Ahmednagar.

... Applicant
[orig. accused no.2]

Versus

The State of Maharashtra
Through Police Inspector,
MIDC Police Station,
Taluka and District Ahmednagar.

... Respondent

.....
Mukund R. Kulkarni, Advocate for the Applicant
Mr. V. M. Jaware, APP for Respondent-State
.....

CORAM : ABHAY S. WAGHWASE, J.

Date : 13.02.2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in crime no. 169 of 2024 registered at M.I.D.C. Police Station, District Ahmednagar for offence punishable under Sections 302, 201 r/w 34 of IPC.

2. Pointing to the date of arrest as 26.02.2024, learned counsel submitted that FIR is of 23.02.2024. That, applicant is not named in

the FIR and subsequently he is shown to be involved. That, there was no motive or intention. That, case is based on circumstantial evidence. Deceased, namely, Sandeep Shelke allegedly died due to strangulation. That, there is no material suggesting involvement of present applicant directly or indirectly. That, investigating machinery claims that there is statement of witness regarding last seen together. However, statement of said witness regarding occurrence dated 21.02.2024 is recorded on 23.02.2024. That, investigating machinery is relying on the story allegedly narrated while recording memorandum made by accused under Section 27 of the Indian Evidence Act. However, said memorandum is said to be of 28.02.2024. That, now investigation is over and charge sheet is already filed in May 2024. Eight months have lapsed since filing of charge sheet. There are no immediate prospects of matter being committed or matter going for trial and as applicant is behind bars since almost one year, learned counsel seeks grant of bail on any condition deemed fit by this Court.

3. Learned APP opposed on the ground that offence is serious. That, there is murder by strangulation. Coupled with CCTV footage, there is witness on the point of last seen together. That, apart from ligature, deceased suffered as many as eight injuries. On thorough

investigation, involvement of applicant has emerged, and hence, learned APP opposes grant of relief.

4. Perused the papers. FIR is of 23.02.2024 at the instance of one Santosh Shelke. He seems to be brother of deceased and he has reported police that his deceased brother, who was working as a Clerk, was suspended for not doing work and getting addicted to liquor. He reported that his deceased brother and mother stayed at Gajanan Colony, Navnagapur, Taluka and District Ahmednagar. That, mother made telephone call to informant in the afternoon of 22.02.2024 informing that deceased had left house in the afternoon of 21.02.2024 but has not returned and she requested informant to search him. Thereupon, informant conducted search but he was not found. On 23.02.2024 informant received telephonic information from police about dead body lying in a building of a closed company. Therefore, looking to the condition of body and injuries, he lodged report of murder against **unknown person**.

5. On above report crime seems to be registered. Applicant is shown to be arrested on 26.02.2024. Learned APP submitted that investigation revealed applicant and other accused to be in the company of deceased and they together were seen consuming liquor.

On this count, learned APP took this Court through the statement of one Parshuram Kolani and he has given statement that he works as a Manager at Ambika Deshi Bar and that he knew deceased who used to come for consuming liquor and used to borrow money for drinking liquor from this witness as well as other customers. He further stated that on 21.02.2024 around 10.00 p.m., deceased came along with two unknown persons in the bar. He gave description of the cloths of those two persons and further stated that one of them purchased liquor bottle and all three left after consuming liquor. He stated that, after closing the bar, when he came out, he saw quarrel going on between deceased and two unknown boys and that, on next morning, brother of deceased, i.e. informant came to make inquiry about his brother and he accordingly informed informant about previous night's visit of deceased along with two persons. Police had watched CCTV footage of the bar and then he claims that he learnt from police that brother of deceased had lodged report.

6. Therefore, learned APP places heavy reliance on above statement. However, this witness has seen deceased in company of two boys and except giving description of their attire, no physical description or features are reported. No Test Identification is shown to be conducted. Moreover, statement of this witness shows that he

allegedly saw quarrel while closing the bar and even claims to have informed about it to informant when he came on next day to make inquiry. However, such version has not been reflected in the FIR lodged by brother about receiving any such information from Parshuram.

7. Therefore, as submitted, case is based on circumstantial evidence, Charge sheet is filed. Applicant is behind bars since more than eight months. There is nothing to indicate matter going for trial in immediate near future. Hence, I proceed to pass the following order:

ORDER

I. The application is allowed.

II. Applicant Sahil Sherkhan Pathan, be released on bail in connection with Crime No. 169 of 2024 registered at M.I.D.C. Police Station, District Ahmednagar, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on following conditions:

[a] The applicant shall not tamper prosecution evidence.

[b] Applicant to attend concerned police station once in every week i.e. on every Monday, till commencement of trial.

[c] The applicants shall attend each and every effective date before the trial court.

[d] In case of change in the residential address of the applicant, the applicant shall bring it on record of the concerned police station as well as the trial court.

[ABHAY S. WAGHWASE, J.]

vre