



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2329 OF 2024

Pradeep s/o Vishwanath Tapaskar,
Age : 33 Years, Occu : Business,
R/o Pawna, Tq. Himayatnagar,
District Nanded.

... Applicant

Versus

The State of Maharashtra,
Trough Himayatnagar Police Station,
Tq. Himayatnagar, District Nanded.

... Respondent

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Mr. S. V. Bhopi, Advocate for the Applicant.
Mr. N. D. Batule, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 29.01.2025

Pronounced on : 30.01.2025

ORDER :

1. This is a regular bail application on account of arrest of applicant in crime no. 130 of 2024 registered at Himayatnagar Police Station, District Nanded for offence under Section 302 of IPC.

2. Pointing to the date of arrest as 19.06.2024, learned counsel pleads false implication. He pointed out that, apparently FIR is against unknown person for committing murder of Ashish for unknown reason. It is further submitted that, in supplementary

statement, applicant is named and mere doubt has been expressed. That, case is based on circumstantial evidence. He pointed out that, police have reported autopsy surgeon about deceased meeting road traffic accident and there is noting to that extent in the PM report. However, subsequently, allegations are levelled about committing murder by hammer. Learned counsel pointed out that hammer was in fact lying on the spot. He pointed out that, informant mother has alleged that there was transaction of plot between deceased son and present applicant and due to money transaction, her son was done to death. However, according to learned counsel, there is no foundation to such accusation. That, there is delay in recording statements of witnesses. He pointed out that there is variance in the alleged amount of transaction, i.e. in statement given by witnesses and the alleged notebook seized by police machinery. He lastly submitted that now, chargesheet is already filed and applicant is behind bars since more than seven months and when nothing further is shown to be recovered or discovered at his instance and as he is ready to abide any condition, learned counsel urges for grant of bail.

3. Learned APP opposed on the ground that serious offence is committed. He pointed out that there are statements of witnesses to whom applicant had disclosed his intentions to commit murder of

deceased. Statements of such witnesses are also recorded under Section 164 of Cr.P.C. That, one lady Radhabai had also seen present applicant to be in the company of deceased on the day of incident and hence, learned APP opposes grant of bail.

4. Heard. Perused the papers. FIR appears to be at the instance of Sundarbai Jadhav. In her report dated 13.06.2024, she has informed police that on 11.06.2024 her deceased son left house at 10.00 a.m. but he did not return home either in the evening or in the night. That, on 12.06.2024 her other son Jayram received telephone call from Police Patil informing that deceased was lying injured near a bridge on the road going from Karanji to Sarsam. Accordingly, all went there and found Ashish lying in pool of blood with head injury and a hammer lying there. Apparently, as pointed out, above report is against unknown person for committing murder for unknown reasons.

5. On 20.06.2024, by way of supplementary statement, informant mother has further reported that, she learnt from police that her son was done to death by present applicant in the backdrop of financial transaction. However, it is pertinent to note that in FIR, initially mother has categorically stated that her deceased son had purchased

plot at Sonari Phata, but she has further stated that she does not know from whom said plot was purchased. Now, in supplementary statement, she has given details that her son had given Rs.3,70,000/- to applicant and as he was seeking it back, her son was done to death. The very supplementary statement is about receiving above information from police.

6. As pointed out by learned APP, there seems to be a statement by one Raju Gaikwad about present applicant approaching him on 28.05.2024 seeking his indulgence to kill one person who was allegedly bothering him. He has further stated that, on 30.05.2024 he had accompanied present applicant on motorcycle and he was introduced to deceased and they all together went to see suitable match for deceased and while returning, as motorcycle of deceased got punctured and when applicant was away from him and deceased, he wrote a chit to deceased altering him about danger from applicant, but deceased did not take it seriously and later on, they all further proceeded and at Dhakni, bear was purchased with money given by applicant, but only this witness and deceased consumed it. Around 10.00 p.m. deceased went his way and present applicant and this witness came back. This witness states that, applicant confided to him that he is going to finish deceased and he also allegedly showed

hammer kept in the dickey of motorcycle and later on he learnt about the incident. Police confronted him the hammer and he identified it. However, statement of above witness is recorded on 19.06.2024 i.e. almost after six days. Similarly, mother of this witnesses, namely, Radhabai, to whose statement learned APP invited attention, also seems to have given said statement on 19.06.2024 about hearing applicant disclosing his intentions to do away with deceased and her son being taken by applicant.

7. Resultantly, case seems to be based on circumstantial evidence. Initial FIR is against unknown person and present applicant, who is said to be friend of deceased, is named by mother informant on receipt of information from Police, and it is so evident from her supplementary statement. Applicant is behind bars since June 2024. Brother of deceased has also expressed his inability to state who killed his brother and that he had no enmity with anyone in the village. Taking such material in the chargesheet into consideration, and when nothing further is shown yet to be recovered or discovered at the instance of the applicant, no fruitful purpose would be served by continuing his detention. Hence, I proceed to pass the following order:

ORDER

I. The application is allowed.

II. Applicant Pradeep s/o Vishwanath Tapaskar, be released on bail in connection with Crime No. 130 of 2024 registered at Himayatnagar Police Station, District Nanded, 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] The applicant shall not enter village Pawna, taluka Himayatnagar, district Nanded till conclusion of trial.

[ABHAY S. WAGHWASE, J.]

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