



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 415 OF 2024

Jaydeo Ramesh Thorve

.Vs.

State of Maharashtra, thr. PSO, PS Lonar, District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr R.M. Daga, Advocate for the applicant.

Ms Mrunal Barbade, APP for the State.

CORAM : G.A. SANAP, J.

DATE : 06.01.2025

Heard.

2. The applicant, who has been arrayed as an accused No.2 in the crime bearing No. 338/2023 registered at Lonar Police Station, District Buldhana has made this application for bail under Section 439 of the Code of Criminal Procedure for the offence punishable under Sections 302, 201 read with 34 of the Indian Penal Code.

3. Learned Advocate for the applicant submitted that the main role in the crime has been attributed to accused No.1, Santosh Thorve. The accused No.1, Santosh had a motive to commit the murder of the deceased. Learned Advocate submitted that accused No.2 has been falsely

implicated, being the relative of accused No.1. There is no evidence to establish the complicity of accused No.2 in the commission of the crime. Learned Advocate took me through the report and pointed out that accused No.1 Santosh had illicit relations with the wife of the deceased. The father of the deceased, who is the informant in this case, did not like the illicit relations of accused No.1 with the wife of the deceased and therefore, he, along with other relatives, gave an understanding to the deceased. Learned Advocate submitted that in the report, the father of the deceased has not stated the name of accused No.2. No role has been attributed to him. Learned Advocate submitted that on the basis of the statement made by accused No.1 which led to the recovery of the handkerchief, the police have arrested this accused. It is submitted that said statement of the accused is not legally admissible. Learned Advocate submitted that, subject to appropriate conditions, the bail may be granted to accused No.2. It is submitted that accused No.2 is ready to abide by the conditions that may be imposed by the Court.

4. Learned APP submitted that apart from the memorandum under Section 27 of the Indian Evidence Act, 1872 of the main accused, there is ample evidence collected during the course of the investigation by the Investigating Officer to establish the complicity of accused No.2 with the main accused in this crime. Learned APP took me through

the statements of those witnesses. Learned APP submitted that if accused No.2 is enlarged on bail, then he will tamper with the prosecution evidence. The possibility of threatening witnesses at the behest of accused No.2 and his family member, who are the residents of the same village, cannot be ruled out. The CA report with regard to the analysis of the blood detected on the clothes of accused No.2 is awaited.

5. I have perused the record and proceeding. I have also gone through the reasons recorded by the learned Additional Sessions Judge for rejection of his bail application.

6. The report of the incident was lodged by the father of the deceased on 29.10.2023. The incident occurred in the night of 28.10.2023. The perusal of the report would show that the informant-father of the deceased did not attribute any role to accused No.2. The informant even did not have suspicion with regard to the involvement of accused No.2 in this crime. He has stated that accused No.1 had illicit relations with the wife of the deceased. The accused No.1 used to visit the house of the deceased. The informant and the other relatives did not like the visit of accused No.1 to the house of the deceased. They gave an understanding to the deceased and instructed him not to allow accused No.1 to visit their house because the visits of accused No.1 to his house would defame them in the village. The informant has further stated

that in the night the deceased informed him that he was going with a tractor on the field of accused No.1 for a ploughing operation. It is further stated in the report that the deceased did not come back in the night and therefore, he was worried. On the next day he came to know that his son was lying dead in the tin shade of accused No.1. On the basis of this report, an investigation was carried out.

7. It is to be noted that while deciding the bail application, the material collected by the investigating officer cannot be subjected to scrutiny so as to record a finding on merits. However, for the limited purpose of deciding or ascertaining the role attributed to the accused persons, it can be looked into. It is not the case of the informant that this accused No.2 had any motive or enmity with them. It is also not the case of prosecution that accused No.2 in any manner extended help to accused No.1 in his illicit relations with the wife of the deceased. The statements of witnesses show that in the night, accused No.2 was seen with accused No.1 as well as the deceased. The witnesses have stated that they had seen accused Nos.1 and accused No.2 coming out of the shade in the night. Two witnesses have stated that they heard the shouts of the deceased from the shade requesting accused No.1 as “मेलो रे संतू दा, मला मारू नको रे संतू दा”. It is therefore, apparent that no motive has been attributed to accused No.2. It is also not the case of prosecution that he was

on inimical terms with the deceased. He had no quarrel at any time with the deceased. The deceased had gone to conduct the ploughing operation with the tractor on the field of accused No.1. There is no recovery of any weapon or any article at his instance. The blood was found on his clothes. The clothes had been seized after five days of the occurrence of the incident. He was arrested on 01.11.2023. As far as the statement of accused No.1 under Section 27 of the Indian Evidence Act, 1872 is concerned, in my view, it may not be legally admissible as against accused No.2.

8. In the facts and circumstances considering the age of accused No.2 and the role attributed to him, it would be just and proper to grant him bail subject to appropriate conditions. In the teeth of the available evidence, his further incarceration may amount to pre-trial punishment. Hence the following order:-

- i) Criminal application is allowed.
- ii) Applicant- **Jaydeo Ramesh Thorve** be released on bail in Crime No.338/2023 registered with Police Station Lonar District: Buldhana for the offence punishable under Sections 302, 201 read with 34 of the Indian Penal Code , on his furnishing P.R. Bond in the sum of Rs. 30,000/- (Rupees Thirty

Thousand only) with one surety in the like amount.

iii] The applicant shall not enter village Palaskhed Taluka Lonar District Buldhana till the completion of trial.

iv] The applicant shall not directly or indirectly make any inducement, promise to any witness in any manner.

v] The applicant shall not tamper with the prosecution evidence.

vi] The applicant shall not pressurize or threaten the prosecution witnesses.

vii] The applicant shall co-operate the investigation officer.

9. The Criminal Application stands **disposed of** accordingly.

(G. A. SANAP, J.)