

CNR No. MHND010035812023 	<u>Sessions Case No.249/2023</u> <i>State of Maharashtra</i> <i>Vs.</i> <i>Amol Marotrao Shinde</i> <i>(Applicant Suhas Marotrao Shinde)</i>
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ORDER BELOW EXH. 06

This is third bail application filed under Section 439 of the Code of Criminal Procedure (for short, 'the CrPC') for grant of bail in connection with crime No.61/2023 dated 02-06-2023 of Police Station Manatha for the offences punishable under sections 302, 120-B, 324, 506 of the Indian Penal Code (for short, 'the IPC').

2. Earlier bail application moved by the applicant seeking pre-arrest bail under Section 438 of the CrPC vide M.C.A. No. 358/2023 filed was dismissed by order dated 27/06/2023. Thereafter, on 06/12/2023 the applicant was arrested and moved an application seeking regular bail vide M.C.A. No. 965/2023 which came to be dismissed on merit by order dated 12/01/2024. After filing of supplementary charge-sheet against him, the applicant again moved second successive bail application vide M.C.A. No. 169/2024 which came to be dismissed on merit by order dated 22/03/2024. This is third successive bail application filed by the applicant.

3. The FIR was registered on 02-06-2023 on the report of Vishal Uttamrao Shinde, who is son of deceased Uttamrao. He has stated that on 02-06-2023 his father and mother were taking morning walk, at that time one white color four-wheeler bearing

registration No. MH-26/BQ-7114 came from *Manatha Fata* side in high speed and passed by them and after reaching at a distance of about 100 meters, it turned back and came towards his parents and gave severe dash to his father from behind. His father sustained grievous injuries. He was taken to the hospital where he was declared dead. One Damodar Ade, walking along with the deceased at the time of incident, also got injured due to dash given by the said vehicle. It is alleged in the FIR that due to previous disputes between family of the accused and family of the deceased, the applicant along with co-accused conspired to commit murder of deceased and accordingly they committed murder of father of the informant by giving severe dash of four-wheeler from behind. Based upon this the FIR was registered against the applicant and co-accused.

4. I have heard learned Advocate appearing for the applicant and learned APP for State and perused the charge-sheet.

5. It is submitted by the learned Advocate appearing for the applicant that the case of the prosecution is that the applicant and co-accused had hatched conspiracy and in accordance with that they have committed murder of deceased Uttamrao. However, perusal of FIR or the entire charge-sheet do not show any role played by the applicant either in hatching of the conspiracy or in commission of crime. One witness Pradip Sambhaji Chabharkar has stated that he had heard co-accused Marotrao saying to co-accused Amol and Sandip that “तुम्हाला आकला नाहीत, येवढे तिन पोर असुन एक पण कामाचा नाही. थोड्या लाजा वाटु दया, एक अंगठा छाप उत्तम तुम्हाला भारी पडत आहे. मागच्या पंधरा वर्षापासून आपल्याकडे असलेलं चेअरमन पद त्याने काढुन

घेतल. तुम्ही तीघे असुन तुम्हाला काही जमल नाही, काहीतरी करा त्या उत्तम्याच . तो एकटा तुम्हाला काही जमु देत नाही. त्याने गावातील आपली सर्व प्रतिष्ठा घालवली. मागील वीस वर्षांपासून मी एकटा होतो तर गावातील सर्व सत्ता माझ्याकडे होती. संस्थापण कोणाकडे जावू दिली नाही. तुमच्या हातात कारभार दिला तेव्हापासून भिकाला लागायची वेळ आली माझ्यावर. माझ काय आहे संपलं आता सर्व, तुमचं सर्व आयुष्य पडलं आहे तुमच्यापुढे. बघा काय करायच तुम्हाला आता. पतसंस्थेची निवडणुक आहे समोर”. The witness has not stated that the applicant was present there with co-accused at that time. Apart from this, no other incident of hatching conspiracy came forward. This clearly indicates that the applicant was not part of alleged conspiracy. Further, if at all any such conspiracy to commit murder was hatched by the accused persons, why any complaint was not made in the police station against the accused persons. In so far as the accident is concerned, according to the prosecution, co-accused Amol was driving the vehicle and he gave dash to the deceased from behind due to which he died. The vehicle also doesn't belong to applicant. Nothing has been recovered at the instance of the applicant during investigation. Therefore, even if the case of the prosecution would be considered as it is, there is nothing to connect the applicant with the alleged crime. He is falsely implicated.

6. He further submitted that it was a case of road accident only and the applicant has not committed any offence as alleged. It is mentioned in the FIR itself that there were disputes between the families of deceased and accused, therefore, the informant has suspicion that the applicant and co-accused might have committed murder of his father. The FIR is totally based upon mere suspicion. All the witnesses are interested witnesses. The prosecution is trying

to give colour of murder to an accidental death.

7. The learned Advocate has further submitted that immediately after the accident, the applicant himself rushed to the spot to help the informant to take the victim to the hospital and was with the informant in the hospital. If he had intention to kill the deceased, he would not have helped to provide medical treatment to the victim to save his life. His conduct would have been to ensure death of victim. The conduct of the applicant after the accident, sufficiently shows that he did not intend to kill the deceased. There is no reason or motive for the applicant to cause death of deceased. A totally false case came to be made out intentionally and purposely. Liberty of the applicant cannot be curtailed based upon such baseless and vague allegations.

8. The learned Advocate has further submitted that the applicant is a reputed person in the society. He has no criminal antecedents. The investigation is completed and charge-sheet is filed. The applicant will remain present during the trial and will not abscond. The applicant is ready to abide every condition imposed on him if released on bail. Hence, he be released on bail. Hon'ble Bombay High Court in the case of ***Bharat Ganpat Gaikwad Vs. State of Maharashtra 2020 SCC ONLINE BOM 7978.***

9. The learned Additional Public Prosecutor for the State has seriously contested the application seeking bail on the grounds that the successive bail applications are not tenable unless there is change in circumstances. Earlier bail applications filed by the applicant were dismissed on merits. The allegations against the applicant are serious. There is enmity between the families of informant and the accused. The contents of FIR and statements of

witnesses show involvement of the applicant in the crime and that the applicant and co-accused conspired to commit murder of Uttamrao. Co-accused Anil had used a car of his friend to commit murder of the deceased, which came to be seized during investigation. There is previous enmity between the parties. The applicant may hold out threat to the life of the informant and witnesses to dissuade them from giving evidence against him and co-accused. Hence, he prayed to dismiss the application.

10. The complainant has also filed his affidavit (Exh. 09) opposing the bail application.

11. I have considered the submissions and perused the material produced. There is no dispute that the deceased has died due to dash given by the four-wheeler vehicle while he was taking morning walk along with his wife. According to the applicant it was a road accident, whereas according to the prosecution it was a pre-planned murder. Statements of witnesses Anup, Ramakant and Atiq connect co-accused Amol with the said vehicle and the accident caused by it. Witness Anup has specifically stated that co-accused Amol had requested him to give his vehicle to him and he brought back the vehicle in damaged condition. It was taken to garage of Atiq for repair. Statements of Atiq and Ramakant also support case of the prosecution. There is no reason to disbelieve the statements of these witnesses at this stage.

12. The eye-witnesses and other witnesses are either relatives of the accused persons or they are very well acquainted with them. They have specifically stated about involvement of the applicant in the alleged crime. Even the witness Pradip Sambhaji

Chambharkar, who had seen and heard co-accused talking with each other, has stated that co-accused Amol said to co-accused Marotrao and Sandip that “हो तुमच्या त्याने सुहासला पण शाळेच्या मॅटरमध्ये खुप त्रास दिला आहे. बघाव लागेल काहीतरी त्याच तसेच सुहास हा सुध्दा खुप रागात आहे त्याच मुख्याध्यापक पदावरून काढले तेव्हा पासून त्याचेवर, तो म्हणाला होता मला त्याच काहीतरी करावे लागल म्हणुन , सांगा काय करू ते. नाहीतर मी बघतो काय करायच ते, संदिप आहे केस पहाण्यासाठी. निवडणुकीच्या अगोदर काही केल नाही त्याच तर या निवडणुकीमध्ये सुध्दा आपले काही खर नाही”. A chain of circumstances has been brought forth by the investigating agency which connects the applicant with the crime. The FIR and other material show previous enmity between the accused and family of the deceased, pointing towards intention and motive to kill the deceased. Considering the strained relations between the parties, facts and circumstances of the case and nature of allegations, there is every possibility that the applicant may pressurize the prosecution witnesses and may tamper with the evidence, if released on bail. Therefore, the applicant is not entitled to bail.

13. It is pertinent to mention here that the bail application filed by the applicant after filing of the charge-sheet came to be dismissed by this court on 22/03/2024 on merits. The applicant has again moved this application for bail on 10/04/2024 within a span of 19 days without there being any change in circumstances. The grounds raised in this application has been considered by this court in earlier bail application filed by the applicant and no any fresh ground or material change in circumstances exists to entertain this application. It is settled position that successive bail application cannot be entertained unless there is substantive change in the circumstances.

14. Having regard to this and to the fact and circumstances of the case, nature of allegations and gravity of the offences, I am of the opinion that the applicant is not entitled for bail. In the result, I pass the following order:

ORDER

The application is dismissed.

Date : 21-06-2024.

(R.R.Patwari)
Addl. Sessions Judge-3,
Nanded.

Certificate

I affirm that the contents of this P.D.F.file Judgment are same word to word, as per the original judgment.

Name of Stenographer	:-	Anand P. Deshmukh Stenographer G. 1
Court name	:-	Addl. Sessions Judge-3,Nanded.
Date	:-	21.06.2024
Judgment signed by		
Presiding officer on	:-	24.06.2024
Judgment uploaded on	:-	24.06.2024

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