

Order below Exh.1 in Cri. Bail Application No. 150/2022

Rahul Dhanraj Badgujar .. Applicant/
Accused.

Vs.

The State of Maharashtra
through Police Inspector,
Ambad Police Station, Nashik.
(Cr. No.I 265/2021) .. Prosecution

Order below Exh.1.

1. This application has been filed by the applicant/accused under section **439 of Cr.P.C.** for releasing him on **regular bail** in the aforesaid Crime registered at Ambad Police Station, for the offence punishable under sections 302 r/w. 34, 120-B of IPC u/s. 4/25 of the Arms Act.

2. According to the prosecution, the FIR was lodged by the wife of the deceased alleging therein that, she was married in the year 2009 with one Pappu Ashok Rajgire. Out of the said wedlock, she has given birth to two children. On 04.02.201, he died due to accident. After his death, his family members drove them out of the house. She started residing separately alongwith her children. In the mean time, she came into contact with deceased and fall in love with him and they performed marriage in the temple and started residing with him alongwith children. The accused are in-laws of the complainant. They

came to know about her relationships with deceased. They got annoyed and threatened the complainant and deceased on several occasion. They did not like staying of the complainant with the deceased. The complainant shifted her residence from time to time due to terror of the accused persons. On 01.09.2021, during evening hours, the accused persons who are juvenile-in-conflict with law came to her house and assaulted the deceased with deadly weapons. As a result, the deceased succumbed to the injuries. He was taken to the hospital and the Doctor declared him dead. So, she lodged report.

Based on her report, crime was registered against the accused vide CR No.265/2021 and the applicant was arrested on 18.09.2021 and since then, he is in judicial custody.

3. The learned counsel Mr. S.R.Inamdar appearing for the applicant/accused has argued that applicant has been implicated in the false case. He is innocent. There is inordinate delay in lodging the FIR. His name is not appearing in the FIR. The charge-sheet is filed and investigation is over. Further, other co-accused are already released on bail and as such ground of parity is available. He is ready to abide each and every conditions if any imposed by this Court while enlarging him on bail. Lastly, he prayed for bail to the applicant/accused.

5. The ld. APP Smt. R.Y.Jadhav has strongly opposed the application stating that the offence is serious in nature. The

applicant is the part of conspiracy. If applicant is released on bail, there is every possibility that he may abscond. Hence, prayed for rejection of the bail.

The Investigating Officer has filed his say vide Exh.5 and submitted that the offence is serious in nature. The applicant is habitual offender. One of the accused is still absconding. He further submitted that the accused has criminal history and in all 12 offences are registered with Ambad Police Station. Hence, prayed for rejection of the application.

6. After hearing both the sides and going through the charge-sheet, it appears that applicant is not named in the FIR. Even there is no evidence which would go to show that he conspired to kill the deceased along with co-accused. None of the accused have stated during memorandum panchnama under section 27 of Indian Evidence Act, that he was part of conspiracy. Despite observation of this court in earlier bail order that the concerned IO has not pointed out the specific role of the applicant and how, where, with whom he conspired, IO has not taken pains to clarify the same. Though he is criminal on record and it would be one of the reasons for rejection of his bail provided there should be sufficient evidence against him in the instant crime. Considering the role assigned to the applicant, period of detention and that there is no possibility of commencement of trial in near future, I am inclined to allow the application. Hence, following order.

O r d e r

1. Application is hereby allowed.
2. Applicant/ accused – Rahul Dhanraj Badgujar shall be released on **regular bail** on furnishing his P.R.bond of Rs.25,000/- with one or more sureties in the like amount.

He shall -

- (a) not act in manner injurious to the interest of the prosecution.
 - (b) maintain law and order.
 - (c) furnish the address of his residence, copy of Pan and Adhar card at the time of execution of bond and shall not change the residence without prior permission of this Court.
3. If the applicant/accused commit breach of any of the above conditions, the bail granted to him shall be liable to be cancelled.

(**Smt. S.S. Nair**)

Date : 11.02.2022.

Addl. Sessions Judge-4, Nashik.