

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1923 OF 2015

Kishor Magan Patil

.... **APPLICANT**

V E R S U S

The State of Maharashtra

.... **RESPONDENT**

.....

Mr. Joydeep Chatterji, Advocate for Applicant.

Mrs. Pratibha Bharad, A.P.P. for Resp.– State.

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CORAM : V.M.DESHPANDE, J.

DATE : 28th APRIL, 2015

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PER COURT :

1. By the present application, applicant is seeking his release on bail in connection with Crime No. 46/2014 registered with Thalnar Police Station, Dist. Dhule for the offences punishable u/s 302,120 (B) read with 34 of the Indian Penal Code.

2. Heard Mr. Joydeep Chatterji, learned counsel for applicant and Mrs. Pratibha Bharad, learned A.P.P. for Respondent – State.

3. F.I.R. was lodged against unknown person after

the death of Sahebrao was noticed in his agricultural field. Learned A.P.P. submitted that incriminating material against the applicant is 'last seen theory' as well as recovery of stone. Admittedly, there is no eye witness account. In so far as 'last seen theory' is concerned, learned A.P.P. invited my attention to the statement of Dilip Moreshwar Kulkarni and Sachin @ Banti Yadavrao Patil. From their statements, it appears that applicant was having drinking session with others including deceased in the morning itself and thereafter he left said place and went to the agricultural field of Dilip. There he stayed for ten minutes. Then he went towards the agricultural field of Sahebrao. Further, there is no evidence that deceased was lastly seen alive in the company of the applicant. There is also no evidence that the applicant ultimately reached to the agricultural field of Sahebrao.

4. In so far as recovery of stone is concerned, from the memorandum statement, it is clear that said recovery is from open space and the applicant was not having exclusive control over the said place. Looking to the aforesaid nature of the accusations against applicant and since charge sheet is filed, further custodial presence of the applicant is not at all necessary.

5. Hence, I pass the following order :

(i) Present Criminal Application is allowed.

(ii) Applicant Kishor Magan Patil be released on bail in connection with Crime No. 46/2014

registered with Thalnar Police Station, Dist. Dhule for the offences punishable u/s 302,120 (B) read with 34 of the Indian Penal Code on he executing P.R. Bond of Rs. 30,000/- [Rupees Thirty Thousand] with two solvent sureties of like amount. Bail before the trial Court.

(iii) Present applicant shall attend Thalner Police Station once in a week preferably on every Thursday between 10.00 a.m. and 12.00 noon till the charge is framed by the Court below.

(iv) With these observations, present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]