

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

CRIMINAL APPLICATION NO. 3724 OF 2015

Ashok s/o Laxman Gaikwad

.... **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. G.L.Deshpande, Advocate for Applicant.

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

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CORAM : V.M.DESHPANDE, J.

DATE : 29th JULY, 2015

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PER COURT :

1. Applicant is seeking his enlargement on bail since he is arrested in connection with Crime No. 39/2015 registered with Karjat police station, District Ahmednagar for the offences punishable u/s 302,323,506 of the Indian Penal Code.

2. Heard Mr. G.L.Deshpande, learned counsel for the applicant and Mrs. Pratibha Bharad, learned A.P.P. for respondent – State.

3. Applicant is arrested in present crime on

16/02/2015 and presently he is in magisterial custody remand.

4. Deceased is one Sharda. She is wife of first informant Harishchandra Bagal. Her body was found near Deshmukhwadi, Taluka Karjat on 13/02/2015. The body was firstly noticed by Kalyan Ashru Bagal. Said fact was informed to police station Karjat. Accordingly, accidental death vide A.D. No. 13/2015 is registered.

F.I.R. is lodged on 14/02/2015. F.I.R. shows that on 11/02/2015 other family members of first informant left the house for their respective work, whereas first informant left the house for thrashing on the agricultural field of Krishna Bagal. At 7.00 p.m., when he returned he noticed the absence of his wife Sharda. According to F.I.R., he made enquiry with his niece Surekha, who has informed to him that on 11/02/2015 at 3.00 p.m. she noticed that the present applicant was indulging in objectionable activity [बळजबरी] with the deceased. Thereafter, he left the place.

From the F.I.R. it is clear that the grand-mother of Surekha was present in the house. Since according to F.I.R., Surekha disclosed to the first informant that she sat with the grand-mother. As per the version in the F.I.R., which the first informant has received from Surekha, that at 4.00 p.m., she heard noise from behind their house and that time she noticed that the present applicant was dragging the deceased and thereafter he pushed the deceased in the canal.

5. Postmortem report is available on record.

According to said report, cause of death is “ death due to asphyxia due to drowning”. While conducting postmortem, no antemortem injuries were found. This aspect is important in view of the fact that, according to Surekha, deceased was dragged by the applicant near the canal.

6. Missing report though is not available on record, it appears was filed with police on 12/02/2015.

Silence on the part of Surekha not to disclose even to her grand-mother about the objectionable act on the part of the present applicant with the deceased at 3.00 p.m. on 11/02/2015 and also not to disclose to anybody about pushing at the hands of the present applicant in the canal to the deceased till 14/02/2015, makes a *prima facie* case in favour of the applicant for bail. That leads me to pass the following order.

- (i) Present Criminal Application is hereby allowed.
- (ii) Applicant Ashok s/o Laxman Gaikwad be released on bail in connection with Crime No. 39/2015 registered with Karjat police station, District Ahmednagar for the offences punishable u/s 302,323,506 of the Indian Penal Code on he executing P.R. Bond of Rs.25,000/-[Rupees Twenty Five Thousand] with two solvent sureties of like amount. Bail before the trial

court.

- (iii) Present applicant shall attend Karjat police station once in a fortnight preferably on every Sunday between 3.00 – 5.00 p.m. till the culmination of the trial.
- (iv) With these observations, present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]