

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

CRIMINAL APPLICATION NO.1599 OF 2016
IN
CRIMINAL APPEAL NO.151 OF 2016

Ganesh s/o Laxman Pawar,
Age 23 years, Occu.Labour,
R/o Deopul, Taluka Kannad,
District Aurangabad

.. Applicant

Versus

The State of Maharashtra,
through Pishor Police Station,
Taluka Kannad,
District Aurangabad

.. Respondent

Mr J.V. Deshmukh, Advocate h/f Mr B.N. Magar, Advocate for applicant
Mr M.M. Nerlikar, A.P.P. for respondent

**CORAM : A.V. NIRGUDE AND
V.K. JADHAV, JJ.**

DATE : 20th June 2016

PER COURT

1. The applicant/appellant was accused No.1 at the stage of trial. Accused No.2 was Sagar. Both the accused were convicted for offence punishable under Section 302 read with Sec.34 of Indian Penal Code. They are accused of committing murder of one Umesh in between 25th April 2014 and 26th April 2014. The prosecution could prove that Umesh died of homicidal death. The dead body was found in a well. He has suffered head injury. During the night of 25th April 2014, appellant was with Umesh and others. After Umesh and accused in this case left his house at about 7.00 – 7.30 p.m., his mother waited for Umesh. When Umesh did not come back, she started search for him. During the search, she went to house of Umesh's friends. She made phone call to Umesh using mobile handset of one Raju. She learnt from her son Umesh that he had gone to the field of one Pandurang. Till morning, Umesh did not come back. Umesh's mother continued her search and asked appellant – Ganesh

as to what happened to her son in the morning. Ganesh explained her that he had left Umesh at about 10.00 p.m. in the night.

2. There is nothing on record to indicate that the appellant and other accused were with Umesh, when he apparently visited the field of Pandurang. On the other hand, Umesh's dead body was found elsewhere. No other circumstantial evidence is brought on record against the appellant. The another accused came before us in a separately filed appeal and we released him on bail holding that evidence of last seen together is not indicated against him.

3. From the facts narrated above, we are of the view that the evidence as against the appellant about last seen together is also thin and certain explanation has already come on record. We are, therefore, inclined to release the applicant/appellant on bail.

3. The applicant/appellant be released on bail on furnishing P.R. bond of Rs.25,000/- (Rs. Twenty five thousand) with one surety in the like amount.

4. The bail bonds shall be furnished before the trial Court.

5. Criminal Application stands disposed of.

(V.K. JADHAV, J.)

(A.V. NIRGUDE, J.)

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