

Ghat, District Pune. In pursuance of the said plan, Accused No.2 Vitthal Chavan persuaded deceased Vinayak to drink liquor and when he became semi conscious/unconscious at a secluded place on Kondhanpur Road, poured/sprinkled petrol on the said Wagon-R car and ignited it with match stick. Vinayak, who was already unconscious in the car, died in the said fire. Dead body of Vinayak was found in the early morning of 28.10.2016 and accordingly, the villagers informed the police about the same. The police initially registered an accidental death No. 53 of 2016 and subsequently, lodged the present crime after realizing the fact that the said was not an accident but is a murder. The police have registered the present crime on 28.10.2016. During the course of investigation, Applicant came to be arrested on 28.10.2016. After completion of investigation, the police have submitted charge-sheet.

3 Heard learned Counsel for the Applicant, learned APP and perused the entire charge-sheet.

4 The record clearly indicates that the motive for committing murder of Vinayak Talekar revolves around Accused No.2 Vitthal Chavan, who was heavily indebted to various debtors and with a view to get money from Insurance Company, he created the said scene of his own accidental death. The said fact can be gathered from the statements of witnesses namely Smt. Archana and Smt. Tejaswini. It is the allegation against the Applicant that he assisted Vitthal Chavan in commission of the present crime. The record further indicates that

Smt. Sangeeta Talekar i.e. mother of the deceased Vinayak has stated that on 23.08.2016 at about 11.00 a.m. her younger son Ganesh received a phone call from deceased Vinayak intimating that he was in the company of Applicant and Accused No.2 Vitthal Chavan. The witness Ganesh has further stated that on 23.08.2016 at about 6.00 p.m. he again called the Applicant and enquired about his whereabouts, when Applicant informed him that Accused No.2 Vitthal Chavan and the deceased Vinayak are heavily drunk and after he drops them at their places, he would come back to the garage, however the Applicant did not return in the night. Thus, the prosecution has propounded the alleged circumstance of last seen together of deceased with the present Applicant on 23.08.2016 at about 6.00 p.m.

5 The other circumstance which has been propounded against the Applicant is the alleged extra judicial confession given by the Applicant to said two witnesses namely Smt. Archana and Smt. Tejaswini about the commission of offence. It is to be noted here that the said two witnesses have clearly stated that when the Applicant was in police custody, he has admitted his guilt and/or confessed about the commission of the present offence. Prima facie it appears that the said confessional statement given by the Applicant to witnesses namely Arachana and Tejaswini cannot be accepted as extra judicial confession as the said statement was made in the presence of police when the Applicant was in the police custody.

4 Thus, prima facie it appears that, apart from the said circumstance of last seen together on 23.08.2016 at about 6.00 p.m., there is no other material against the Applicant. In view thereof, the Applicant can be released on bail.

5 Hence, the following order:

a) The applicant be released on bail in C.R. No. 172/2016 dated 27.08.2016 registered with Saswad Police Station, District Pune on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

b) After his release from jail, the applicant shall attend Saswad Police Station on every 1st and 3rd Monday of the month between 11.00 a.m. to 2.00 p.m. initially for the period of six months and thereafter, once in a month i.e. every third Monday of a month till conclusion of trial.

c) The applicant shall also attend all dates before the Trial Court.

d) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.

e) The Applicant shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.

f) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)