

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1331 OF 2018
IN
CRIMINAL APPEAL NO.31 OF 2019**

Shankar Mahadev Savant

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Umesh H. Pawar for the Applicant/Appellant.

Mr. Arfan Sait, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.**

DATE : 19/09/2019.

PC.:

. Heard respective counsel. PW-20 Hauserao at the most brings on record presence of accused and deceased together at 5.30 p.m. on 5/8/2015. It appears that he has turned hostile in Court and refused to identify accused, though he has identified deceased. PW-11 Nitin has deposed that at 8.00 p.m. on 5/8/2015 he gave lift to accused and brought him to Wategoan. When accused sat in his jeep his clothes were blood stained. However, in Court he has not supported this later part of clothes being blood stained. There is one independent witness viz., Shri Vishwas who claims that at about 8.30 p.m. he met PW-11 and accused at Wategoan Bus stand and then he saw blood stains on shirt of accused. He inquired and accused told him that he had fall from vehicle.

2. The conviction is based on circumstantial evidence. Last seen, recovered clothes stained in human blood and motive are those

circumstances. Motive is deceased not paying amount of Rs.10,000/- due from him to accused. Recovery of clothes is after 4 days from a cattle shed near the house of accused. Group of blood of deceased has not been determined. According to accused, sample of blood from him was obtained before this recovery without drawing any panchanama and that blood has been used to implicate him in false case.

3. Doctor who has conducted autopsy i.e. PW-23-Doctor Prakash has stated that death might have taken place between 2.00 a.m. to 4.00 a.m. on 6/8/2015. He has specifically denied suggestion that had deceased received treatment immediately he would have recovered.

4. This evidence of Doctor therefore runs counter to the case of prosecution. Based upon evidence of above three witnesses facts prima facie show that deceased Sagar was alive at 8.30 p.m. when PW-22-Vishwas met accused at Wategoan Bus stand. In this situation, the contention of prosecution that clothes of accused were then blood stained does not remain much relevant.

5. We therefore find applicant accused entitled to bail. He is accordingly granted bail on following terms and conditions:

(a) The applicant shall execute personal bond in the sum of Rs.20,000/- before the trial court for proper behaviour and for remaining present on due dates before the Court in the present matter with two independent sureties in the like amount;

(b) He shall give address at which he shall always be available during the pendency of this appeal along with his contact numbers;

(c) Similar details in relation to his sureties shall also be furnished;

- (d) He shall not in any way directly or indirectly attempt to contact or pressurize either complainant or any of the witnesses in the matter;
- (e) He shall keep vakalatnama of his advocate alive and valid till the appeal is finally decided by this Court and shall not be entitled to any fresh notice at the stage of final hearing;
- (f) He shall report to the Superintendent/Registrar of the concerned Court on first working Monday in every two months as a condition of his release;
- (g) His failure to observe any of the terms and conditions shall entitle the respondent State to take him in custody forthwith;
- (h) The application is accordingly allowed and disposed of.

(SANDEEP K. SHINDE, J.)

(B. P. DHARMADHIKARI, J.)