

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

923 BAIL APPLICATION NO.1355 OF 2020

Gokul Bhausahab Shirtar
Age : 27 years, occ : agri.,
R/o Godsewadi, Tal. Sangamner,
District Ahmednagar.

Applicant

Versus

The State of Maharashtra
Through Police Station Incharge,
Sangamner Police Station,
District Ahmednagar.

Respondent

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Mr. V.Y. Bhide, Advocate for the applicant.
Mr. A.A. Jagatkar, A.P.P. for respondent / State.

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CORAM : V.K. JADHAV, J.

DATE : 10.12.2020

ORDER :-

1. At the request of the learned Counsel for the applicant, leave to correct the name of the father of applicant in title clause of the Bail Application.

2. The applicant is seeking regular bail in connection with Crime No. 589 of 2020 registered with Sangamner Police Station, District Ahmednagar for the offences punishable under Sections 302, 201, 506 read with Section 34 of the Indian Penal Code. His Bail Application No. 226 of 2020 with

similar prayer came to be rejected by the learned Additional Sessions Judge, Sangamner, District Ahmednagar vide order dated 02.11.2020.

3. Heard both sides.

4. Learned Counsel for the applicant submits that the investigation is over, charge-sheet has been submitted and this is the first application before this Court after filing of the charge-sheet. The applicant is in jail in connection with the present crime since 11.08.2020.

5. Learned Counsel for the applicant submits that the prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case. Learned Counsel submits that in the night of 04.08.2020 the present applicant and deceased Ramdas, who happened to be the husband of the informant, had returned to the house by consuming liquor. There was a quarrel between them on account of hand loan. According to the informant, her deceased husband was under the influence of liquor, abused her and driven her out of her hut. Thus, the informant slept in the hut of her aunt situated in front of her own hut. On 05.08.2020 at about 6.00 a.m. her aunt Sumanbai had given a call to deceased, however, deceased had not responded to

her call. Thus, aunt Sumanbai woke up the present informant and accordingly the informant went towards her hut. Informant outside from the hut noticed that her husband deceased Ramdas had hanged himself to the roof of the hut. Thus, the informant raised hue and cry and started weeping. According to her, thereafter the present applicant, who is the son of her aunt Sumanbai and the husband of the aunt, woke up and accordingly took the dead body of Ramdas on floor by removing Sari tied around his neck. Learned Counsel submits that it has been alleged in the complaint that thereafter the applicant and other co-accused persons did not allow the informant to lodge complaint in Police Station and carried dead body of her husband Ramdas on the motorbike and thrown it in the water of the canal. Learned Counsel submits that on the same set of allegations co-accused persons came to be released on bail. Applicant has fixed place of resident, easily available for trial. Applicant is ready to abide all the conditions if imposed by this Court while enlarging the applicant on bail. Applicant may be released on bail.

6. The learned A.P.P. has strongly resisted the application on the ground that though there is no direct evidence in this case, however, there was dispute between the

deceased at one side and co-accused Bhausab and present applicant on other side on account of some money transaction. In the night of 04.08.2020 deceased and present applicant returned to the house by consuming liquor and at that time there was quarrel between them on account of said money transaction. Learned A.P.P. submits that dead body was in highly decomposed condition, and therefore, Medical Officer who has conducted the provisional postmortem could not give the opinion about probable cause of death. However, Medical Officer has answered queries made by the Investigating Officer that the possibility of constriction of neck cannot be ruled out. Learned A.P.P. submits that thereafter the applicant and co-accused did not allow the informant to approach the police for lodging complaint. On the other hand, applicant and co-accused person had carried the dead body of deceased Ramdas on their motorbike and thrown it in the water of canal. Prima facie there is strong case against the applicant.

7. On going through the allegations made in the complaint and on perusal of the charge-sheet, it appears that the informant had noticed dead body of the deceased in hanging position in his own hut. There is no direct evidence in this case. Informant had gone to the house of her aunt in

the night as deceased under the influence of liquor had driven her out from the hut. Thus, the deceased was alone in the hut. In the morning even though witness Sumanbai (aunt of the informant) had given a call to the deceased, the deceased did not respond. Thereafter witness Sumanbai woke up the informant and followed her also woke up her husband Bhausahab and present applicant Gokul. It further appears from the statement of Sumanbai that applicant Gokul by inserting his hand from the side of the door opened the latch inside of the hut. Though there are allegations about causing of disappearance of the evidence after noticing the dead body of deceased in the hanging condition against applicant and other co-accused, however, on the same allegations co-accused Bhausahab came to be released on bail. Merely on the basis of some quarrel that had taken place between the deceased and the applicant on the previous night, no inference about the involvement of applicant in the commission of the crime could be drawn. Furthermore, there is no specific cause of death opined by the Medical Officer and he has just given possibility of constriction of the neck of deceased. Thus, considering the entire aspect of the case, I am inclined to release the applicant on bail. Hence, the following order.

ORDER

1. Application is hereby allowed.
2. Applicant Gokul Bhausahab Shirtar in connection with Crime No. 589 of 2020 registered with Sangamner Police Station, District Ahmednagar for the offences punishable under Sections 302, 201, 506 read with Section 34 of the Indian Penal Code, be released on furnishing personal bond of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety of the like amount, on the following conditions :
 - (i) The applicant shall not tamper with the prosecution evidence in any manner.
8. Application is accordingly disposed of.

(V.K. JADHAV, J.)