

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

924 BAIL APPLICATION NO.349 OF 2021

DATTATRAY ANKUSH PATHADE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Karpe Rahul R.
APP for Respondents/State : Mr. A.A. Jagatkar
...

CORAM : M.G. SEWLIKAR, J.
DATE : 26th August, 2021

PC.:-

By this application under Section 439 of the Cr.PC., the applicant is seeking bail in connection with Crime No. 416 of 2020 registered with Shrigonda Police Station, District Ahmednagar under Section 302, 109, 201, 120-B read with Section 34 of the I.P.C.

2. Prosecution case in brief is that the deceased was found dead in his field with an injury on his neck. Initially, the family members were under the impression that the deceased accidentally came in contact with live electric wire and died due to electrocution. However, they came to know that after receipt of *post mortem* report that the deceased had injuries all over his body including his private parts. Thereafter, they suspected that the applicant and accused no.2 had illicit relations. The deceased came to know of this

illicit relations. He started demanding sexual favour from accused no.2-Sonali. Prosecution alleges that this was the motive for applicant to do away with the deceased.

3. The evidence collected by the prosecution is in the form of memorandum statement under Section 27 of the Evidence Act. The first memorandum is with respect to the jacket and a knife. Applicant allegedly gave the memorandum that he had thrown the jacket having blood stains and knife into the well. On the basis of another memorandum statement a shirt having blood stains was found in the bush. Another evidence collected by the prosecution against the accused is that of mobile calls made by the deceased to accused no.2-Sonali on the day of the incident. Allegedly three calls were made by the deceased to Sonali.

4. It is worth noting that all the family members have stated that they never suspected that applicant-Dattatraya and Sonali-accused no.2 had illicit relations. Their relations were friendly. Therefore, it is incomprehensible as to how the investigation officer came to know of the alleged illicit relations between the applicant and accused no.2. All the witnesses say that they learned of the illicit relations between these two persons from the police. No evidence is adduced by the prosecution to show the source of knowledge of police about these illicit relations.

5. So far as calls made by the deceased to the accused no.2 are concerned, this evidence is also not worth considering at this stage because copy of charge-sheet does not contain the CDR and SDR though communication was made to the concerned company. Secondly, deceased was brother in law of accused no.2. All the family members have stated that their relations were friendly. The only evidence on which Shri Jagatkar learned APP placed heavy reliance is the piece of pocket found on the spot and allegedly had matched with the shirt which was found in the bush and which was recovered at the instance of the accused. How much weight to be attached to this evidence is a matter of appreciation of evidence by the trial Court. At this stage, considering the evidence of the prosecution, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- i. The Bail Application stands allowed.
- ii. The applicant DATTATRAY ANKUSH PATHADE be released on bail in connection with Crime No.416/2020 dated 3.5.2020, registered with Shrigonda Police Station, Tq. Shrigonda, District Ahmednagar for the offences punishable under Sections Section 302, 109, 201, 120-B read with Section 34 of the I.P.C. on PR bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.
- iii. The applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence in any manner.

- iv. The applicant shall not enter in village Aadhalgaon, Wakade vasti, Tq. Shrigonda, District Ahmednagar and shall reside elsewhere, till conclusion of the trial.
- v. Along with submitting the bail papers before the learned Trial Judge, the applicant shall give her complete address of the place of her residence where he intends to reside till the end of the trial.
- vi. The applicant shall also give the said information to the Investigating Officer along with mobile number shall comply with the requirements set out in Para No.12 (1) to (6) of Chapter-I of Criminal Manual, whichever are applicable.
- vii. Bail before the trial court.

[M.G. SEWLIKAR, J.]