

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.363 OF 2021

Babasaheb @ Santosh s/o Rambhau Dhokle,
Age 30 years, Occupation Blacksmith,
R/o Kachrewadi Tq. Jalna Dist. Jalna. **...Applicant**

VERSUS

The State of Maharashtra,
Through Police Station Taluka Jalna,
Tq. And Dist. Jalna. **...Respondent**

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Advocate for Applicant : Mr. G. R. Bagal h/f Mr. B. N.
Gadegaonkar.

APP for Respondent-State : Mr. A. V. Deshmukh.
.....

CORAM : SMT.VIBHA KANKANWADI, J.

**DATE OF RESERVING THE ORDER :
06-05-2021**

**DATE OF PRONOUNCING THE ORDER :
08-06-2021**

ORDER :

1. Present applicant has been arrested on 10-02-2021 by Jalna Taluka Police Station, District Jalna, in connection with Crime No.58 of 2021, for the offence punishable under Section 302, 201 read with 34 of the Indian Penal Code. He is accused No.2 and he has filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. S. R. Bagal holding for Mr. B. N. Gadegaonkar for applicant and learned Additional Public Prosecutor Mr. A. V. Deshmukh for respondent-State. In order to cut short it is stated that, both of them have made submissions in support of their respective contentions.

3. It can be seen from the First Information Report which is lodged by PSI Motiram Sonu Bagad attached to Police Station Taluka Jalna, District Jalna that initially A.D. 15 of 2021 was registered with his police station and the inquiry of the same under Section 174 of the Code of Criminal Procedure was handed over to him. That information was given by one Jamil Sadik Tundiwale who had seen dead body of an unidentified lady near a mine behind Mathura Hotel. When the post mortem was done, the provisional cause of death certificate showed the cause of death as, "Evidence of Head Injury with Rib Fracture." Thereafter, the dead body was identified and it is stated that the deceased was one Kamal Shahu Kolhe. Her son has identified her dead body. When it was revealed that the death is homicidal, the First information Report has been lodged against unknown person. Further it appears that both the accused persons i.e. present applicant and one Deepak Patekar were taken in

custody, and it is stated that, there was a dispute of her agricultural land and on that count she was assaulted with stones and then thereafter she was strangled. Statements of witnesses have been recorded. Accused No.1 Deepak is stated to be the brother of deceased. There was dispute in respect of the agricultural land from her parental side between the brothers and sisters of the deceased. They had attended Ambad Court on 08-02-2021. The son of the deceased gave statement that his uncle had reported to him that on 09-02-2021 he had informed brother Pravin that as it was late to come from the Court, the relatives had taken them to Jalna and, thereafter, his mother went missing. Thereafter, there is statement of one Balkisan Mesu Pathare who says that on 07-02-2021 deceased Kamalabai and her son Sachin had gone to the house of Balkisan Pathare. Balkisan's wife Nanda is the sister of deceased Kamlabai. He has stated that after they returned from Ambad Court to Jalna, they went to the house of one Sudhakar. Accused No.1 and Kamlabai were at home. They told that they would go out for walk. Only Deepak returned around 12.30 to 01.00 a.m., and when asked about the whereabouts of the Kamlabai, he told that he had not taken Kamlabai with him, he has no knowledge about her. It is then stated that they searched for Kamlabai but they could not

found her. They went to police station to lodge a report about her missing around 06.30 p.m. on 09-02-2021. When Chandanzira Police were making inquiry, Deepak fled away from the police station but then police caught hold of him after searching him. They also told that they have found dead body of a lady and Balkisan Pathare and others should go and identify. After they identified the lady, it was so revealed that it is Kamlabai who has been murdered. Nandabai Balkisan Pathare in her statement states that she had gone out with her sister-in-law at some other place. Her husband Balkisan, deceased Kamlabai and Deepak were the only persons in the house. When she returned, she found only Balkisan in the house. She made inquiry about Kamlabai and Deepak. Balkisan told her that Kamlabai has gone for answering nature's call, but she did not return back and Deepak had gone to get payment. There is statement of one Sundarbai Vishnu Shirgule who has stated that she had seen Deepak and deceased Kamlabai going towards Chandanzira around 07.30 to 08.00 p.m. Same is the case with another witness Vishnu Namdeo Shirgule. Thus, it is to be noted that as regards the present applicant is concerned, his presence is not stated by anybody. The only evidence against him is the statement under Section 27 of the Indian Evidence Act by Deepak as

well as he himself. It is stated that the present applicant has discovered his clothes. At this stage, the Chemical Analysis report is awaited. The connection of the present applicant appears to be only the friend of Deepak. Police at this stage have not come with a case that what the present applicant was supposed to gain from that dispute between Deepak, deceased Kamlabai and other brothers and sisters. Therefore, with this kind of evidence, the applicant need not be kept in jail. It would take long time to conclude the investigation and stand his trial. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) Applicant Babasaheb @ Santosh s/o Rambhau Dhokle, arrested in connection with Crime No.58 of 2021, registered with Taluka Jalna Police Station, Dist. Jalna, for the offence punishable under Section 302, 201 of Indian Penal Code, be released on P.R. of Rs.50,000/- (fifty thousand) with two solvent sureties of Rs.25,000/- each (twenty five thousand).
- 3) The applicant shall not tamper with the evidence of the prosecution in any manner.
- 4) He shall not indulge in any criminal activity.

- 5) Before submission of bail papers, the applicant should give complete address of his residence with his mobile number. So also he should comply with the requirements under paragraphs No.12 (1) to (6) of Chapter I of Criminal Manual, whichever are applicable.
- 6) The applicant to attend Taluka Jalna Police Station Dist. Jalna on every Wednesday and Sunday from 09.00 a.m. to 12.00 noon and maintain diary of his attendance duly countersigned by the Police Station officer, till filing of the charge-sheet.
- 7) Bail before Trial Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-