

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

10 BAIL APPLICATION NO.390 OF 2021

**SAURABHKUMAR @ PATO LAKSHMI MANDAL
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. Ghule Aniruddha B.
APP for Respondents/State : Mr. A.V. Deshmukh
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 20th September, 2021**

PC.:-

Heard.

2. The informant who was working as a Station Manager on the date of the incident i.e. 18.12.2010 lodged the report that on 18.10.2010 at 3.03 pm train no.1397 Dn Bhusawal-Wardha Passenger had arrived on platform no.1. It left the platform no.1 at 3.04 pm and chain was pulled at 3.07 pm. One Afsar Khan who was working as a Guard of the said passenger train informed the informant through walkie talkie that one person was lying in injured condition in coach no. CR 89401. The injured was of 30 to 35 years of age. He was lying in a pool of blood, one knife was embedded in the abdomen, another one was embedded in the neck. One knife was lying at the door of the bogie and another knife was lying at the feet of the injured. It is

further alleged in the FIR that some unknown persons had committed the murder of the deceased. Identity of deceased was established as Bambam Manoj Mandal. Investigation was taken up. Three accused were arrested. After completion of investigation charge-sheet was submitted against those accused. At that time, applicant was alleged to be absconding. The applicant came to be arrested on 20.11.2019. This is how supplementary charge-sheet came to be filed against him.

3. Shri Ghule learned counsel for the applicant submitted that there is no evidence connecting the accused with the offence. He submitted that the applicant was very much there in the town. Nothing has been placed on record to show that the applicant was absconding.

4. Learned APP Shri Deshmukh submitted that there is sufficient evidence to connect the accused with the offence. He submitted that the entry in the register of a lodge dated 18.12.2010 shows that the applicant and other accused along with the deceased were together. He submitted that this itself is sufficient to connect them with the offence being last seen with the deceased. There are statements of witnesses also indicating that the deceased was seen with the applicant and other accused.

5. On perusal of the papers annexed with the application it is seen

that accused Ajay was prosecuted for the alleged offence and he has been acquitted by the learned Special Judge, Bhusawal, District Jalgaon vide judgment and order dated 15.07.2019. It is not in dispute that the three accused which were arrested have been acquitted.

6. Nothing has been placed on record by the prosecution to show that the accused was absconding. There is no evidence on record to show that the accused was in any way involved in the murder of the deceased. Last seen theory is a weak type of evidence. On the basis of such evidence, it will not be proper to detain the accused behind the bars for an indefinite period.

7. Learned APP Shri Deshmukh submitted that the applicant has criminal antecedents. If he is released on bail he will not be available for trial.

8. Having regard to the statements of the learned APP and to allay the fear of the prosecution, stringent conditions can be imposed on the applicant. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.50,000/- with one solvent surety in the like amount, in connection with Crime No.179 of 2010 under Section 302 read with Section 34 of the I.P.C. registered with Bhusawal Railway Police Station, District Jalgaon

and on condition that he shall report to the concerned police station once in a week i.e. on every Monday between 10.00 am and 1.00 pm.

- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]