

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

941 BAIL APPLICATION NO.403 OF 2021

**SUNIL MOTIRAM RATHOD
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Nagargoje Prashant M.
APP for Respondents/State : Mr. S.D. Ghayal
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 21st August, 2021**

PC.:-

This is an application for bail under Section 439 of the Cr.P.C.

2. Prosecution case in short is that the deceased was a transgender. Applicant was in love with the deceased. Family members of applicant were against such relationship. After some days, applicant severed all relations with the deceased and went to his native place. On 8th December, 2020, applicant was on his way to village Bhokangao Tanda. At that time at 1.00 pm the deceased was begging. On seeing the applicant deceased got into the auto in which the applicant was travelling. Deceased was in no mood to listen and was not ready to leave applicant. Therefore, applicant and deceased got down at Brahmawadi Pati. Both of them consumed liquor. They had a quarrel on account of which applicant delivered blows of stick on the head and other

parts of the body. Deceased fell unconscious. Applicant admitted the deceased into the hospital. It is the prosecution case that one Vishnu Suryawanshi is the cousin of the applicant. Applicant gave extra judicial confession to Vishnu Suryawanshi about the commission of murder of the deceased by him. On the basis of the alleged confession, informant who is the police constable lodged the FIR, on the basis of which offence under Section 302 of the I.P.C. came to be registered against the applicant at Chakur Police Station, District Latur.

3. Heard Shri Nagargoje learned counsel for the applicant and Shri Ghayal learned AGP for the State.

4. On perusal of the entire charge-sheet, it appears that prosecution case hinges on the alleged extra judicial confession made by the applicant to the said Vishnu Suryawanshi. However, prosecution has not recorded the statement of said Vishnu Suryawanshi. Admittedly, applicant himself admitted the deceased into the hospital. Learned AGP Shri Ghayal submitted that after admission, applicant left that place immediately. This cannot be a circumstance connecting the accused with the offence. Therefore, having regard to the nature of the evidence collected by the prosecution, I am inclined to release the applicant on bail. In this view of the matter, the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.15,000/- with one solvent surety in the like amount, in connection with Crime No.472 of 2020 under Section 302 of the I.P.C. registered with Chakur Police Station, District Latur.

[M.G. SEWLIKAR, J.]