

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 414 OF 2021

Parmeshwar s/o Manchakrao Katkade Applicant

Versus

The State of Maharashtra Respondent

Mr. S.G. Jadhavar, Advocate for the applicant.

Mr. Y.G. Gujarathi, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 29th June, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. The informant, who is the brother of the deceased Kaushalya, lodged the First Information Report against the applicant alleging that deceased Kaushalya was his sister and she married the applicant about seven years before the incident. She has a daughter and a son out of the wedlock. The applicant is short tempered person and he used to beat the deceased Kaushalya for no rhyme or reason. On 19th November, 2020, the applicant had come to the

house of the informant. In the evening at 7.30 pm, the applicant called up the informant and said that he would kill the deceased and abused him in filthy language. When he went to Undegaon, one Pralhad, brother-in-law of the deceased, told him that the applicant drove the auto rickshaw in high speed on account of which, the auto turned turtle with the result deceased Kaushalya died. Auto rickshaw was deliberately driven by the applicant in high speed as he had the intention to kill the deceased. On these allegations, the First Information Report came to be lodged on the basis of which offence under Section 302 of the Indian Penal Code came to be registered against the applicant.

3. Heard Shri Jadhavar, learned counsel for the applicant and Shri Gujarathi, learned APP for the State.

4. Learned counsel Shri Jadhavar submitted that it was an accident and a colour of murder is being given to this incident. He submitted that there is no evidence to show that the applicant had any intention to commit murder of deceased Kaushalya. He submitted that entire investigation is complete and charge-sheet has also been filed. Applicant is behind bar since 15th November, 2020.

He submitted that the applicant may be released on bail.

5. Learned APP submitted that the applicant deliberately drove the auto in high speed. The accident was intentional as the applicant infact wanted to commit murder of the deceased. He, therefore, drove the auto rickshaw in high speed. It was not an accident but it was a murder as had it been the accident, applicant and one Satyawar who accompanied them in auto rickshaw, would also have sustained some injuries. However, they came out uncaptured. This itself goes to show that it was not an accident but was a murder. He further submitted that witness Sheshrao Katkade states that when the auto rickshaw turned turtle, he went to the spot. At that time he noticed that applicant was extremely angry and from that observation he got an impression that the incident was not an accident but it was a murder. He, therefore, prayed that the applicant may not be released on bail.

6. Charge-sheet has been filed. There is no eye-witness to show that the accident was a fake one but the real intention of the applicant was to kill the deceased. Witness Katkade stated that the auto turned turtle and when he went to the spot, he saw the

applicant was very much annoyed. On that basis, he drew the conclusion that the applicant must have assaulted the deceased and must have created a fake scene of accident. Panchanama of auto rickshaw is also on record which shows that the auto rickshaw was also damaged. Just because the applicant and Satyawann did not sustain injury, it cannot be inferred that the accident was a fake one and the real intention of the applicant was to kill the deceased. Except this, there is nothing on record to show that the deceased died a homicidal death. In this view of the matter, I am inclined to release the applicant on bail. Hence, the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount, in connection with Crime No. 498/2020 (Sessions Case No. 16/2021) registered with Gangakhed Police Station, District Parbhani, for the offences punishable under Section 302, 201 read with Section 34 of the Indian Penal Code.
- iii) Observations in this order are made only for the disposal of this application. Trial Court shall

not get influenced by it and can come to independent conclusion.

iv) Application is disposed of.

(M. G. SEWLIKAR)
Judge

dyb