

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

925 BAIL APPLICATION NO.499 OF 2021

**GANESH @ GANPAT S/O POPAT WAKADE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Nilesh S. Ghanekar, Advocate for the applicant
Shri. S. P. Sonpawale, APP for the respondent/State

CORAM : M. G. SEWLIKAR, J.

DATED : 31st August, 2021

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure.

2. The applicant is accused of commission of offence under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code and under Sections 4/25 and 7 of the Arms Act.

3. Case of the prosecution is that the deceased was the wife of accused No. 1. Accused No. 1 is the husband of sister of the husband of the deceased. Accused No. 2 is the friend of the applicant No. 1. Accused Nos. 3, 4 and 5 are

the friends of accused Dattatraya and applicant Ganesh. It is the prosecution case that the dead body of the deceased was found floating in the river. It was a decapitated body. Head was found somewhere else in the village. It is the case of the prosecution that accused Nos. 1 to 3 and 5 trespassed into the house of the deceased Ashwini. They fell her down. Accused No. 5 held both the legs, accused Nos. 2 and 3 held her hands and accused Nos. 2 and 3 strangled her. The dead body of the deceased was transported in Bolero Pickup Van No. MH16 AY 2602 to Turkabad Kharadi road. Accused No. 4 decapitated the head of the deceased and again the dead body was carried to Shivna river on Aurangabad to Ahmednagar road in the Bolero Pickup Van of the applicant and the dead body was thrown into river Shivna. On these allegations offences under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code came to be registered against the applicants.

4. Heard Shri. Ghanekar, learned counsel for the applicant and learned APP Shri. Sonpawale for the respondent/State.

5. Learned counsel Shri. Ghanekar argued that the only evidence against the applicant is that his clothes had stains of blood of the blood group of the deceased. He further submitted that the applicant is the owner of the Bolero Pickup Van No. MH16 AY 2602 in which the dead body was allegedly carried. According to the prosecution, blood stains were found in the Bolero Pickup van. Shri. Ghanekar submitted that at the most the applicant can be charged under Section 201 of the Indian Penal Code i.e. destruction of evidence. He submitted that there is no direct evidence to connect the accused with the offence. Even chain of circumstantial evidence is broken at many places. He submitted that all the accused have been released on bail. The accused who had the grudge against the deceased is also released on bail. Applicant, therefore, be also released on bail.

6. On perusal of the charge-sheet it is seen that the allegations against the applicant are that he had held the hands of deceased. It is also alleged that he along with accused No. 2 had strangulated the deceased. The dead

body was carried in his Bolero Pickup van to Ambelohal to Turkabad Khradai road and at that place head of the deceased was severed.

7. Admittedly, the clothes of the applicant had stains of blood and CA report shows that the stains of blood were of the deceased. The blood stains of the blood group of the deceased were also found in the Bolero Pickup van of the applicant. Having regard to the seriousness of the offence and the evidence collected by the prosecution against the applicant, this is not a case in which discretion can be exercised in favour of the applicant. Application is, therefore, rejected.

[M. G. SEWLIKAR, J.]

ssp