

VERSUS

Mrs. Poonam V. Bodkhe Patil, Advocate for the applicant,
Mr. V. M. Kagne, A.P.P. for the State.

ORDER:

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Since the deceased was obstacle in their illicit relations, it is alleged that the present applicant and the said Anita colluded with each other and in between 7.00 a.m. of 10.05.2020 and 11.00 a.m. of 11.05.2020, committed murder of the deceased.

3. Mrs. Poonam V. Patil, learned counsel for the applicant, submits that the present case is based on circumstantial evidence and the theory adopted by the prosecution is that of "last seen together" but no such case is made out in the first information report. Even otherwise, the theory of last seen together is not prima facie satisfactorily established. This fact must go in favour of the applicant, argued learned counsel. Besides, the applicant has number of dependents in his family and moreover, he has a daughter of marriageable age. In such circumstances the application deserves consideration, argued learned counsel.

4. Mr. V. M. Kagne, learned A.P.P., on the other hand, submitted that the theory of last seen together is ably supported by prosecution witnesses namely Ravindra Maroti Farse, Shankar Laxman Farse, Ashok Gangaram Farse and Manoj Bhimrao Suryawanshi. According to learned A.P.P., there was motive on the part of the present applicant inasmuch as the illicit relation between the applicant and Anita were not liked by the family members of the deceased including the deceased himself who was none other than the husband. In order to remove said obstacle, the applicant along-with said Anita committed the crime in question. This being so, the present application needs to be rejected,

argued learned A.P.P.

5. When a case is based on "last seen together" it is incumbent on the part of the prosecution to establish prima facie that soon before the death, the deceased was seen in the company of accused and inordinate time gap between the time when the witnesses alleged to have seen the accused and deceased together and the time when dead body of the deceased was found should be eliminated outrightly. Bearing this principle in mind, the statement of so called witnesses who had seen the applicant and deceased together needs to be scrutinized.

6. Statement of Ravindra Maroti Farse, Shankar Laxman Farse, Ashok Gangaram Farse are identical. According to them, on 10.05.2020, the deceased was seen riding motorcycle of the applicant and going towards Narangal. It is pertinent to note here that these witnesses had seen the deceased in the company of accused on 10.05.2020 whereas the dead body of the deceased was found on 11.05.2020 at Narangal- Tamlur road. So also, the statement of Manoj Bhimrao Suryawanshi, aged 9 years shows that the accused applicant had taken away the deceased on his motorcycle in the morning of 10.05.2020. Again, if all these statements are read in conjunction then it would be seen that there was inordinate time gap between when the witnesses alleged to have seen the accused and deceased together and the time when the dead body of the deceased was found lying.

7. As far as the alleged illicit relations are concerned, all the prosecution witnesses unisonly have stated in their respective statements before the investigating officer that there were indeed illicit relations between the accused and Anita.

8. Having regard to the facts and circumstances of the case and as noted above, I am of the considered opinion that it would not be proper to allow the present applicant to remain behind bars. The applicant has made out a case for bail.

9. Hence following order.

ORDER

- i. Applicant be released on bail in connection with Crime No. 225/2020 registered with Degloor Police Station, District Nanded for the offences punishable under Sections 302, 34 of the Indian Penal Code, 1860 on his furnishing P.R. Bond of Rs. 25,000/- [Rs. Twenty five thousand only], with one or two solvent sureties in the like amount to the satisfaction of the Trial Court.
- ii. The applicant shall not tamper with the evidence or influence the witnesses.
- iii. Bail before the trial court.

10. A

11. Application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC