

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

15 BAIL APPLICATION NO.700 OF 2021

**DNYANDEV BHAUSAHEB KHALKAR
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Mr. Chapalgaonkar Shailesh S.
APP for Respondents/State : Mr. S.P. Sonpawale
...

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

PC.:-

Heard.

2. Prosecution case is that the deceased Sanjay Khalkar was the brother of the informant-Vijay Khalkar. On 27.01.2020 at 1.00 am, the informant got a telephonic message from his cousin by the name of Babasaheb Khalkar and it was informed to him by the said Babasaheb that Sanjay Khalkar was brutally beaten by some one. Informant immediately reached village Ranjangaon Deshmukh and after having discussion with Sunil Khalkar it was revealed that the cousin of Sunil Kalkar by the name of Dnyaneshwar Khalkar told him that on 26.01.2020 at 11.00 pm the deceased Sanjay Khalkar had been to the field for watering the field. At that time Dnyaneshwar Khalkar saw a car of white colour. In the light of the battery he saw three persons.

When he adjusted the focus of the battery on these three persons he noticed that they were coming in his direction. Since that perplexed Dnyaneshwar, he started proceeding towards his motorcycle. At that time he found deceased Sanjay Khalkar lying in a water channel. Thereafter, he intimated his brother Sunil Khalkar and Babasaheb Khalkar about the incident. The deceased was shifted to the hospital at 1.30 am where he was declared dead.

3. On the basis of this information offence under Section 302 of the I.P.C. came to be registered against unknown persons.

4. On interrogation it was revealed that applicant-Dnyaneshwar Bhausahab Khalkar was on inimical terms with the deceased on account of property dispute. He had mentioned to witness Sandip Khalkar that there was a quarrel between the deceased and the applicant and that the deceased had been murdered and the said Sandip Khalkar should not disclose it to the police. The applicant was arrested and thereafter he spilled the beans.

5. Learned counsel Shri Chapalgaonkar submits that there is no evidence against the applicant to connect him with the offence. Statement of Sandip Khalkar only shows that the applicant had informed him telephonically that he had a quarrel with the deceased. He submits that except this evidence there is no evidence to connect the applicant with the offence.

6. Learned APP Shri Sonpawale submits that spade was recovered from the spot of the incident. Applicant and the deceased had property dispute on account of which the relations were strained. He submits that evidence on record clearly indicates that the applicant is the author of the crime.

7. The only evidence which the prosecution could collect against the applicant is that of the statement of witness Sandip Khalkar. His statement shows that there was some quarrel between the applicant and the deceased and that applicant had requested the said Sandip not to disclose this fact to the police. Except this prosecution could not collect any evidence against the applicant to indicate that he is the author of the crime. Shri Sonpawale at this stage submitted that spade has been recovered at the instance of the applicant. Spot panchanama under Section 27 does not indicate that said spade had blood stains. Having regard to the nature of evidence collected by the prosecution applicant is entitled to be released on bail. Applicant does not have criminal antecedents. He is a permanent resident of village Ranjangaon Deshmukh. He will be available for trial. Since the charge-sheet is filed, there is no question of tampering of the evidence. Having regard to this, case for bail is made out. Hence, 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.86 of 2020 under Section 302 read with Section 34 of the I.P.C. with Shirdi Police Station, District Ahmednagar.
- 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.]