

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

912 BAIL APPLICATION NO.1152 OF 2021

**AMAR SHRIKANT KAVADE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Rajebhosale Sandeep B.
APP for Respondents/State : Mr. S.D. Ghayal
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 29th November, 2021**

PC.:-

Heard.

2. It is the case of the prosecution that the deceased was the father of the applicant. Informant is the nephew of the deceased. The deceased Shrikant Kavade had five acres land. The deceased was a liquor addict. Applicant always insisted on the deceased to transfer the land of the deceased to the applicant. About six months before the incident the applicant had assaulted the deceased and had caused fracture on this count alone. On 06.03.2021 at about 5.30 pm deceased-Shrikant had called up the informant and told him that the applicant and his wife had turned him out of the house. On 07.03.2021, informant came to know that the deceased was beaten by someone. Informant asked applicant about the incident but applicant feigned

ignorance. When the informant persisted, the applicant confessed and told him that the applicant himself had assaulted the deceased as he was in the habit of selling agricultural land to satisfy his vices i.e. drinking liquor. In the night of the incident at 2.00 a.m., the deceased was taking the cow to sell it. That agitated the applicant so much that he assaulted the deceased by means of a wooden rod. In the morning when the applicant and his wife tried to wake up the deceased they noticed that deceased was dead. Thereafter, this FIR came to be lodged.

3. Heard Shri Rajebhosale learned counsel for the applicant and Shri N.T. Bhagat learned APP for the State.

4. Learned counsel Shri Rajebhosale submits that the deceased did not have any land in his name. Applicant owns five acres of land. Therefore, there was no question of deceased selling the land. For that reason, applicant had no reason to assault the deceased. Therefore, applicant did not have any motive to kill the deceased. He further submits that blood of the deceased was found at some other place. Prosecution could not connect as to how the blood was found at that place.

5. Learned APP opposed this application contending that there is an eye witness to the incident. She is the wife of the applicant. She has given

detailed account of the incident.

6. On perusal of the spot panchanama, it is seen that at the spot of the incident i.e. in front of the house of the applicant, deceased was found dead. Blood was found at that place and it was traced back to the field of Pandurang Bhagwan Chede. The Investigating Officer followed the blood stains and found that blood in large quantity was found at the common bund of Pandurang Bhagwan Chede. Therefore, logical inference that can be drawn is that the deceased had sustained injuries at the common bund of Pandurang Bhagwan Chede and the deceased came to the house of the applicant in an injured condition. Therefore, it appears that spot of the incident is the common bund in the land of Pandurang Bhagwan Chede and the spot in front of the house of the applicant. No investigation seems to have been done in this direction as to how the blood of the deceased was found that too in large quantity at the common bund of Pandurang Bhagwan Chede. Having regard to this there does not seem to be any *prima facie* case against the applicant. In this view of the matter, I am inclined to release the applicant on bail. He does not have any criminal antecedents. Since he has agricultural land at village Sarola, Tq. Washi, he will be available for trial. 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.89 of 2021 under Section 302, 201 of the I.P.C. registered with Washi Police Station, District Osmanabad.
- 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.]