

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

BAIL APPLICATION NO.1191 OF 2021

Prabhakar @ Sham Bhivsan Tambe

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Abhaysinh K. Bhosale Advocate for Applicant.
Shri N.T. Bhagat, A.P.P. for Respondent-State.
...

WITH

BAIL APPLICATION NO.1199 OF 2021

Meenabai W/o Mansaram Pathade

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Sopan G. Bobde Advocate for Applicant.
Shri N.T. Bhagat, A.P.P. for Respondent-State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 17th NOVEMBER, 2021

ORDER :

1. Both these applications are being disposed of by common order as they arise out of the same offence.

2. It is the prosecution case that the informant is the son of the deceased. On 19th May 2021 at 5.00 a.m. as usual deceased Ashok Jadhav, father of the informant left the house for a walk and came back at 6.00 a.m. Again he left the house at 9.30 a.m. saying that he wanted to go to Paithan. He went on motorcycle. Motorcycle of the deceased was found near Aadgaon. However, the deceased was not traced. On 20th May 2021, informant came to know that a dead body was found on the road of Thapti Tanda to Bramhangaon. On reaching there, he identified the dead body to be of his father. His father had injuries from which it could be made out that the deceased was murdered. Therefore, first information report was lodged against unknown persons.

3. During investigation it was revealed that the wife of the deceased by name Ranjana had illicit relations with her brother in law i.e. cousin of the husband. The deceased was aware of their illicit relations. Since he proved to be obstacle in continuation of their illicit relations, Ranjana, the wife of the deceased and her paramour decided to eliminate the deceased. Applicant Meenabai (Bail Application No. 1199 of 2021) took the initiative. The deceased was taken to Renuka Devi Mandir hill, Somthana where the deceased was beaten and he was strangulated to death. Thereafter, his dead body was brought to a field on the road of Thapti Tanda to Bramhangaon.

4. Heard Shri Bhosale, learned counsel for the applicant in Bail Application No.1191 of 2021 and Shri Bobade, learned counsel for the applicant in Bail Application No. 1199 of 2021 and Shri Bhagat, learned APP for the State.

5. Charge-sheet is filed. On perusal of the charge-sheet, it appears that in the memorandum statement given by the accused Santosh i.e. contract killer, he has implicated both the applicants. In his confessional statement under Section 27 of the Evidence Act, he has stated the manner in which the crime

was committed. The confessional part of memorandum is inadmissible and cannot be read in evidence. The only allegation against Prabhakar - the applicant in Bail Application No. 1191 of 2021 is that the dead body was carried in the vehicle driven by him. The said vehicle is owned by one Sundar Thorat. However, learned APP could not point out any evidence indicating that dead body was carried by the applicant Prabhakar in the car. So also there is no evidence to show that applicant Meenabai had taken initiative in the murder of the deceased Ashok. Since there is no prima facie case, I am inclined to release the applicants on bail. Hence the following order:

ORDER

- i) Both the Bail Applications are allowed.
- ii) Each of the applicants be released on bail on their furnishing P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand) with one solvent surety in the like amount, in connection with Crime No. I-156 of 2021, registered with Pachod Police Station, District-Aurangabad, for the offences punishable under Sections 302, 120(B), 201 of the Indian Penal Code.
- iii) Bail Applications are disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]

asb/NOV21