

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

944 BAIL APPLICATION NO.1249 OF 2021

Babasaheb @ Prakash s/o Pandharinath Misal

Age: 29 years, Occu.: Labour

R/o. Dawdi Regency Church, Tekdi Road,
Janu Nagar, Darshana Farms, Room No.301,
Dombivali, Tq.Kalyan, Dist.Thane.

..Applicant

VERSUS

The State of Maharashtra

Through Police Inspector,

Police Station,Hasnabad,

Tq.Bhokardan, Dist.Jalna.

..Respondent

...

Advocate for Applicant : Shri S.B.Deshpande h/f.

Shri Shreyas S. Deshpande

APP for Respondent : Shri S.D.Ghayal

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CORAM : M.G.SEWLIKAR, J.

DATE: 16th November, 2021

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No.72 of 2021, registered with Hasnabad Police Station, Dist.Jalna, under Sections 302, 363, 365, 120(B), 34 of the Indian Penal Code.

2. The informant is the cousin of the deceased Gajanan. Witness Ashwini is the wife of the deceased Gajanan. It is alleged

in the FIR that on 29th May, 2021 at 04:00 a.m., 3-4 persons came to the house of the deceased, physically lifted him and abducted him. When the informant came home, he asked Ashwini, wife of the deceased, as to where the deceased was. At that time she told that 3-4 unknown persons abducted him and they were not acquainted with her. A little while later, a vehicle came from Chandai Ekko. Inmates of the said vehicle were the persons unknown to the informant and Ashwini. They dropped the deceased and fled. During the investigation it was revealed that the deceased was abducted by applicant No.1 and three unknown persons. Applicant No.1 is the brother-in-law of the deceased Gajanan. On these allegations, FIR came to be lodged on the basis of which Crime No.72 of 2021 came to be registered under the aforesaid Sections.

3. Heard Shri S.B.Deshpande, learned counsel holding for Shri Shreyas Deshpande, learned counsel for the applicant and Shri S.D.Ghayal, learned APP for the respondent-State.

4. Shri S.B.Deshpande, learned counsel for the applicant submits that there is no evidence against the applicant to indicate that he is the author of the crime. He submits that there is a stab wound as is evident from post mortem report, however,

no sharp weapon is recovered. What is recovered is only bamboo stick. He submits that considering the nature of the evidence, applicant is entitled to be released on bail.

5. Shri Ghayal, learned APP for the respondent-State submits that weapon has been recovered at the instance of the applicant. Iron rod having notches has been recovered. Medical Officer has opined that injuries are possible by means of this iron rod.

6. FIR shows that witness Ashwini, the wife of the deceased, is an eye witness to the incident. But she did not lodge FIR. She told the informant that deceased Gajanan was abducted by three unknown persons. Later in the day, her statement was recorded and at that time she said that abductor was applicant No.1 and three associates.

7. It is true that weapon was referred to the Medical Officer for his opinion and he has given opinion that injuries can be caused by iron rod having notches. Accused persons are unknown to the informant and to witness Ashwini. If really applicant No.1 had abducted the deceased, there was no reason for witness Ashwini not to disclose his name to the informant. Having considered the nature of the evidence collected by the

prosecution and the fact that charge-sheet is filed and the applicant has no criminal antecedents, I am inclined to release the applicant on bail. Hence, order.

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.50,000/- (Rs. Fifty thousand only) with one solvent surety in the like amount, in connection with Crime No.72 of 2021, registered with Hasnabad Police Station, Dist.Jalna, under Sections 302, 363, 365, 120(B), 34 of the Indian Penal Code.
- iii) Bail Application is 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)
JUDGE**