

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

929 BAIL APPLICATION NO.1257 OF 2021

Onkar s/o Gautam Chavan
Age: 35 years, Occu.: Agri.,
R/o. Devalali, Tq.Bhoom,
Dist.Osmanabad.

..Applicant

VERSUS

The State of Maharashtra
(Through the Police Station
Bhoom, Tq.Bhoom, Dist.Osmanabad)

..Respondent

...
Advocate for Applicant : Shri Ganesh J. Kore
APP for Respondent : Shri N.T.Bhagat

...
CORAM : M.G.SEWLIKAR, J.

DATE: 30th 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.0102 of 2021, registered with Bhoom Police Station, District Osmanabad, under Sections 302 and 201 of the Indian Penal Code.

2. Informant is the mother of the deceased. It is alleged that the applicant and wife of the deceased had illicit relations. On

that count, there used to be quarrel between applicant and the deceased. The deceased went missing from 20th May, 2021. Dead body of the deceased was found on 2nd June, 2021 at Bhoom Shivar. Wife of the deceased identified the dead body of the deceased. The dead body of the deceased had injuries from which it could be made out that death was homicidal. Accordingly, crime was registered under the aforesaid Sections.

3. During investigation, the role of the applicant was disclosed. Therefore, applicant was arrested.

4. Heard Shri G.J.Kore, learned counsel for the applicant and Shri N.T.Bhagat, learned APP for the respondent-State.

5. Shri Kore, learned counsel for the applicant submits that there is no evidence worth the name to connect the accused with the crime. There is only oral evidence to show that there was quarrel between applicant and the deceased on 20th May, 2021. He submits that this witness leads the prosecution no where.

6. Shri Bhagat, learned APP for the respondent-State submits that record clearly indicates that applicant is responsible for the

death of the deceased. He submits that there was a quarrel between applicant and the deceased on 20th May, 2021. Since then the applicant went missing.

7. Therefore, to show involvement of the applicant in the offence the only evidence against the applicant which is collected by the prosecution is statement of one Mahesh Tambe, who states that there was a quarrel between applicant and the deceased on 20th May, 2021. It is pertinent to note that the dead body of the deceased was found in Bhoom Shivar which admittedly is 10 to 15 kms away from the place where alleged quarrel was going on. It is further pertinent to note that dead body was found after almost 15 days. Therefore, the last seen theory cannot be made applicable in the peculiar facts of this case. Moreover, whether injury was ante mortem or post mortem was not determined as Medical Officer has kept relevant column blank. Charge-sheet is filed. In this view of the matter, it is difficult to ascertain as to whether injuries are ante mortem or post mortem. Having regard to this, I am inclined to release the applicant on bail. Hence, the order.

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount, in connection with Crime No.0102 of 2021, registered with Bhoom Police Station, District Osmanabad, under Sections 302 and 201 of the Indian Penal Code and on condition that he shall not pressurize the witnesses.
- 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