

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

923 BAIL APPLICATION NO.1332 OF 2021

**ASHWINI SHARAD KURHADE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. S.B. Deshpande h/f. Deshpande Shreyas S.
APP for Respondents/State : Mr. S.W. Munde

...

**AND
BAIL APPLICATION NO.1427 OF 2021**

**AMOL GANGADHAR SONE
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. A.B. Kharosekar
APP for Respondents/State : Mr. S.W. Munde

...

**CORAM : M.G. SEWLIKAR, J.
DATE : 4th December, 2021**

PC.:-

Heard.

2. Both these applications can be disposed of by common order as they arise out of the same offence.

3. Prosecution case in short is that the deceased was the husband of the applicant-Ashwini (Application No.1332/21). Applicant, her son, parents

of the deceased-Sharad Kurhade were not living with him as the deceased-Sharad Kurhade was addicted to liquor and always created nuisance for everyone. On 15.08.2019, the applicant came to know that the deceased was not responding even after knocking the door, therefore, applicant came to the house of the deceased-Sharad Kurhade. After opening the door it was found that the deceased was found lying in an injured condition. He had multiple injuries. He was taken to the hospital where he was declared dead. Applicant lodged the AD report with the police mentioning therein that the deceased had multiple injuries and he must have ended his life. On the basis of this report AD was registered.

4. After visiting the spot the police authorities realised that this was not a case of suicide, therefore they started investigation. In the investigation, it was revealed that the applicant had given contract to kill the deceased to Shubham Gaikwad and others. Shubham Gaikwad had engaged Vishal Gavhane. Accused Vishal Gavhane and accused Subham Gaikwad with the help of three more persons committed the murder of the deceased. Therefore, FIR was lodged by the PSI-Nawaz Shaikh on the basis of which offence under Section 302, 201, 120-B read with Section 34 came to be registered.

5. Heard Shri Deshpande learned counsel for the applicant in application no.1332/2021, Shri Kharosekar learned counsel for the applicant

in application no.1427/2021 and Shri Munde learned APP for the State.

6. Learned counsel Shri Deshpande and Shri Kharosekar submit that except the confessional statement of Shubham Gaikwad and Anand Kurhade there is nothing on record to connect the applicants with the offence. Learned APP also could not point out any other evidence except the confessional statement of the accused to connect both the applicants with the offence.

7. Charge-sheet is filed. On perusal of the charge-sheet, it does not appear that there is any independent evidence to connect the applicants with the offence. Confessional statements of accused-Shubham Gaikwad and Anand Kurhade are recorded by the Investigating Officer. Accused Anand Kurhade is the son of the deceased and applicant-Ashwini. Their confessional statement is not recorded before the Magistrate but before the Police Officer. In view of Section 25 of the Evidence Act confessional statement before the Police Officer is not admissible in evidence. Thus, there is no evidence to connect the applicants with the offence. In this view of the matter, the following order is passed:

ORDER

- I) Both the applications are allowed.
- II) Applicants in both the applications be released on PR bond of Rs.25,000/- each with one solvent surety in the like amount each,

in connection with Crime No.32 of 2021 under Section 302, 201, 120-B read with Section 34 of the I.P.C. registered with Bhagyanagar Police Station, District Nanded.

- III) These observations are made only for the disposal of these applications 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.]