

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1376 OF 2021
WITH APPLN/2938/2021 IN BA/1376/2021

DHANRAJ S/O SUDHAKAR AGLAVE
VERSUS
THE STATE OF MAHARASHTRA

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Mr. P. P. More, Advocate for the applicant.
Mr. V. M. Kagne, APP for the respondent – State.
Mr. V. S. Valse, Advocate for the original informant.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 09.12.2021

Pronounced on : 23.12.2021

ORDER :-

1. Criminal Application No.2938 of 2021 filed by the original informant seeking permission to assist learned public prosecutor stands allowed and disposed of.

2. Present application has been filed under Section 439 of the Code of Criminal Procedure by the applicant – accused No.1, who has been arrested in connection with Crime No.231 of 2020 registered with Chakur Police Station, Dist. Latur for the offences punishable under Sections 302, 109, 201, 34 of Indian Penal Code.

3. Heard learned Advocate Mr. P. P. More for the applicant and learned APP Mr. V. M. Kagne for the respondent – State assisted by

learned Advocate Mr. V. S. Valse for the original informant.

4. It is the prosecution case that the informant is the brother of the deceased. On 06.07.2020 at 8.00 a.m., deceased prabhakar had gone out. However, he did not come back. Therefore, at 8.30 p.m., the informant contacted the deceased on cell phone. The deceased answered that he was in Chapoli and disconnected the phone. On the next day, i.e. 07.07.2020, at 9.30 a.m., the informant was called at Vijaya Gas Agency by one Parmeshwar Swami. There the informant learned that the deceased was murdered at a place in front of Lohare Furniture on Latur-Chapoli road. Accordingly, he lodged report against unknown person. Offence under Section 302 of the Indian Penal Code came to be registered.

5. The police have completed the investigation and filed the charge-sheet on 26.09.2020. It shows that the further physical custody of the applicant is not required for the purpose of investigation and, therefore, we are required to consider the material that has been collected against the applicant. It can be seen from that material that the case of the prosecution is based on circumstantial evidence, especially the last seen theory which by itself is a weak kind of evidence. It is the prosecution story that there was illicit relations between accused No.3, who is the

wife of deceased and the present applicant. Apart from oral evidence, the entries in the register of Sayali Lodge, Shirur (Taj.), Taluka-Ahmadpur, District-Latur is the evidence to support the case of the prosecution that there was illicit relations. However, then it is required to be seen as to whether that motive was sufficient or was the only cause for eliminating the deceased. The incident had taken place on 06.07.2020 and the FIR came to be lodged against unknown persons. The statements of witnesses, who had allegedly last seen the deceased along with the applicant, have been recorded about two to two and half months later. Even if for the sake of arguments it is accepted that there was some kind of motive for the applicant to commit the offence, yet since the case is based on circumstantial evidence, the application deserves to be allowed. The fact is also required to be considered at the same time that if the deceased had knowledge that there was illicit relation between his wife and the present applicant, whether the deceased would have accompanied the present applicant is a question. Hence, the following order :-

ORDER

- I) Application stands allowed and disposed of.
- II) Applicant – Dhanraj s/o Sudhakar Aglave, who has been arrested in connection with Crime No.231 of 2020 registered with

Chakur Police Station, Dist. Latur for the offences punishable under Sections 302, 109, 201, 34 of Indian Penal Code, be released on P. R. Bond of Rs.50,000/- with two sureties of Rs.25,000/- each.

III) The applicant shall not enter the jurisdiction of Mataji Nagar, Taluka and District Latur till the conclusion of trial. He should reside elsewhere, and before submission of bail papers, the applicant should give complete address of his proposed residence with his mobile number to the trial Court as well as to the investigation officer.

IV) He shall not tamper with the evidence of the prosecution in any manner.

V) He shall not indulge in any criminal activity.

VI) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm