

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

BAIL APPLICATION NO.1377 OF 2021

Sarjerao Pandharinath Bhawar

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Sudarshan J. Salunke Advocate for Applicant.
Shri G.O. Wattamwar, A.P.P. for Respondent-State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 1st DECEMBER, 2021

ORDER :

1. Heard.

2. Prosecution case, in brief, is that the informant is the brother of the deceased Pandharinath Bhavar. Applicant is the son of the deceased. On 25th July, 2021 at 8.00 a.m. applicant came to the informant and said to him that the deceased was killed by someone. Thereupon the informant asked him to lodge the report but the applicant refused to do so and said that last

rites should be performed immediately. Suspecting the involvement of the applicant in the murder of the deceased, informant lodged the report, on the basis of which offence under Section 302 of the Indian Penal Code came to be registered.

3. Heard Shri Salunke, learned counsel for the applicant and Shri Wattamwar, learned APP for the State.

4. Learned counsel Shri Salunke submits that applicant had no animosity with the deceased. Deceased was staying in the field. Applicant's relations with the deceased were good. He submits that there is variance between A.D. report and the First Information Report.

5. Learned APP Shri Wattamwar submits that the applicant was not on good terms with the deceased. There is evidence to show that the applicant had grudge against the deceased. The deceased was a liquor addict and he used to demand money from the applicant, which applicant never provided. He submits that a day before the incident there was a quarrel between the applicant and deceased on account of transfer of land in the name of the applicant. The applicant committed murder of the

deceased as the deceased refused to transfer the land in the name of the applicant.

6. Learned counsel Shri Salunke submits that post-mortem started at 3.00 p.m. and it was over at 3.30 p.m. At the time of commencement of post-mortem, the rigor mortis was well marked. He submits that the death was before twelve hours, which means the death must have taken place at around 3.00 a.m. He submits that the stomach contents show that 30 m.l. food was found in the stomach, which also shows that the deceased must have passed away at 3.00 a.m., as generally villagers have their food at 9.00 p.m. Digestion time is generally six hours. Therefore, from this angle also time of death comes to 3.00 a.m.

7. Charge-sheet is filed. On perusal of charge-sheet, it is seen that in the first information report the informant has alleged that for the first time at 8.00 a.m., through the applicant, he came to know that the deceased was dead. However A.D. report gives diagonally opposite picture. In the A.D. report, the informant says that at 8.00 a.m. he had gone to the field and tried to wake up the deceased but he did not wake up, therefore, he called his

nephews Shahadev Bhavar and Krishna Bhavar. In the First Information Report, informant claims that he came to know about death of the deceased only after applicant told him. At the time of A.D. report, he did not mention that the applicant was responsible for the death of deceased. Except the evidence that the applicant was seen at 6.00 a.m. near the deceased, there is nothing on record to show that the applicant committed murder of the deceased.

8. Applicant has no criminal antecedents. He has permanent residence at village Zirpi, Taluka Ambad, District-Jalna as he owns land there and he will be available for trial. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

(i) Bail Application is allowed.

(ii) Applicant be released on bail on his furnishing P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand) with one solvent surety in the like amount, in connection with Crime No. 417 of 2021 registered with Police Station Ambad, District-Jalna, for the

offence punishable under Section 302 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, J.]