

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1465 OF 2021

LAKSHMAN S/O BAJIRAO INGALE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. S. B. Deshpande, Advocate for the applicant.
Mr. V. M. Kagne, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22.12.2021

ORDER :-

. Present application has been filed under Section 439 of the Code of Criminal Procedure by accused No.2, who has been arrested in connection with Crime No.72 of 2021 registered with Hasnabad Police Station, Tq. and Dist. Jalna for the offences punishable under Sections 302, 363, 365, 120(B) read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. S. B. Deshpande for the applicant and learned APP Mr. V. M. Kagne for the respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. The FIR has been lodged by one Vishnu Bhagwan Sonawane in respect of the abduction and murder of his cousin brother Gajanan

Sonawane. It was against 3 to 4 unknown persons. It was contended that he was abducted around 3.30 a.m. on 29.05.2021 when he was sleeping on a cot in front of his house and thereafter, he was left in injured condition in front of the house of one Ramu Kisan Tompe. Though at the time when informant and his family members could locate him and reach near him Gajanan was alive, but after he was offered water, he expired. He has not disclosed anything to the informant at that time. Accused No.1 is the husband of sister of deceased. It can be seen from the postmortem report which gives probable cause of death as hemorrhagic shock due to multiple stab wound, however, it was stated that the final cause of death can be given only after the report from the chemical analysis. Column No.17 of the postmortem report gives multiple stab wounds over arms and legs, fracture to tibia and fibula. At this stage, we can consider that the death is homicidal in nature. Statements of witnesses initially would show that, they had no idea as to who had abducted deceased, however, later on the statement of one Sagar, it is stated that on 28.05.2021, at about 5.00 p.m, he had met accused Nos.1 and 2 i.e. present applicant and they had told that they would be visiting Deulgaon Raja and while coming back, they would visit Gajanan's place. The statement of the wife of the deceased would disclose that she had seen applicant Nos.1

and 2 coming to the house at night time on 29.05.2021 and abducted her husband. She says that she had resisted those persons and raise the voice, however, she could not stop the accused persons taking away her husband. Important point to be noted is that though she had stated that she had seen the present applicant as well as accused No.1 abducting her husband, she had not informed the names of these persons to the informant Vishnu Sonawane. In her statement, she states that as she was in frightened condition, she could not disclose the names. Her statement under Section 164 of the Code of Criminal Procedure is also on the same line.

4. The incident has taken place in the midnight. Under such circumstance, there is no eye witness to the incident. The prosecution story is based on circumstantial evidence now, which is inclusive of discovery of the weapons. The weapon recovered was sent to the opinion of the medical expert and he has opined that the injuries noted by him on the person of the deceased were possible with such kind of weapon, however, it is to be noted that right now the chemical analysis report has not been annexed with the charge-sheet. Therefore, with this kind of evidence, the applicant need not be asked to remain in jail. He can be released on bail after imposing stringent conditions. Hence, the following order :-

ORDER

- I) Application stands allowed and disposed of.
- II) Applicant – Lakshman s/o Bajirao Ingale, who has been arrested in connection with Crime No.72 of 2021 registered with Hasnabad Police Station, Tq. and Dist. Jalna for the offences punishable under Sections 302, 363, 365, 120(B) read with Section 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 Chandai Eko, Tq. Bhokardan, Dist. Jalna 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