

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 355 OF 2021

Vilas Nana Rasal ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Shailesh Kharat for the Applicant.

Mrs. P. P. Shinde, APP for the Respondent - State.

Mr. Nikhil Maqaium, PSI, Rajgad Police Station, Pune.

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CORAM : V.G. BISHT, J.

RESERVED ON : 25th OCTOBER, 2021

PRONOUNCED ON : 28th OCTOBER, 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 295 of 2019 registered with Rajgad Police Station, Pune for offence punishable under Sections 302 read with 34 of the Indian Penal Code (the IPC).

2. It is the case of the prosecution that Avinash Shantaram Lekawale (since deceased), son of informant, used to work as

a watchman at Gunjawani Dam and go to work by his motorcycle having registration No. MH-12 DF 2775. On 28th August, 2019, the deceased had left for work as usual at around 9.30 p.m. on his motorcycle. However, he was found lying dead near a well. Some unknown persons had assaulted on his head with sharp weapon and killed him. The postmortem report revealed that the cause of death was cardiorispirator arrest due to head injury and multiple injuries.

3. During the course of investigation, it revealed that accused No.1, namely, Bhagwan Garud and the deceased were working as watchmen at same Dam. The deceased and other watchmen had united against the accused and, therefore, the said accused was not happy with the said situation and thus killed the deceased by sharp weapon. It is further alleged that, at the relevant time, the Applicant herein was accompanying with the main accused.

4. Mr. Kharat, learned Counsel for the Applicant, submits that except the fact that on the day of incident, the Applicant was accompanying with the main accused, there is nothing incriminating against him. Even his clothes seized under Section 27 of the Indian Evidence Act were sent to Forensic Science Laboratory but nothing incriminating was found on the clothes of the Applicant. The Applicant is in jail since 31st August, 2019. There are no criminal antecedents against the Applicant. Therefore, he be released on bail on any terms and conditions as this Court deems fit and proper, urged learned Counsel.

5. Mrs. Shinde, learned APP, on the other hand, fairly submits that except disclosure statement given by the Applicant under Section 27 of the Evidence Act, there is nothing incriminating against him and, therefore, in such circumstances, an appropriate order may be passed.

6. I have perused the investigation papers including disclosure statement of the Applicant recorded under Section 27 of the Evidence Act. Accused Bhagwan Garud is the main culprit, who allegedly had assaulted the deceased with koyta and caused his death. The only role attributed to the present Applicant is that on the day of incident, he was accompanying with the main accused. Except that no overt act is attributed on his part.

7. The Applicant's clothes were seized during the course of investigation at his instance. During the course of argument, learned APP filed CA report on record which clearly shows that no blood stains were detected on the clothes of the Applicant.

8. Thus, having regard to the material on record, I do find merits in the submission advanced by learned Counsel for the Applicant and I am of the considered opinion that no useful purpose will be served by allowing the Applicant to languish

in jail. This being so, I am inclined to allow the application.

Hence, the following order :

ORDER

(i) Applicant- Vilas Nana Rasal shall be released on bail in C.R. No. 295 of 2019 registered with Rajgad Police Station, Pune on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in like amount.

(ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

(iii) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(iv) The application is allowed in the aforesaid terms.

(V.G.BISHT, J.)

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