

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1950 OF 2021**

Yogesh Dattatray Murkute .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. I.K. Tripathi i/b Mr. C.K. Tripathi for the Applicant.

Ms. Rutuja Ambekar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 11TH AUGUST, 2021.

P.C:-

1. The Applicant, arraigned as accused along with one Bhaurao Sarjerao Malvadkar, seeks his release on bail in C.R. No.955 of 2018 invoking Sections 302, 201, 365, 323 read with Section 34 of the IPC. He claims parity with co-accused Bhaurao Sarjerao Malvadkar, who has been released on bail by this court on 21/01/2021, recording that the case is based on circumstantial evidence and *prima facie*, at this stage, the circumstances alleged appear to be doubtful.

AJN

2. The case of the prosecution rests on circumstantial evidence, which has been compiled in the charge-sheet. The deceased is one Balasaheb Murkute, the father of the Complainant Mayur Balasaheb Murkute, who lodged a complaint on 12/09/2018 when he was riding a motorcycle along with his father, some verbal altercation had ensued between Accused Nos.1 and 2 in relation to a piece of land, which was declared as a protected tenancy. The informant states that on the next day, his father was reached to Wagholi Bus stop at 8.00 a.m. since he was to go for a hearing in the Court at Shivajinagar. In the evening, his wife received a telephone call from his father, who informed her that he is likely to return late, but he did not return back and his mobile was also not reachable. A missing complaint came to be lodged on 03/09/2018. The complainant rely upon the information supplied to him by Yogesh, the present Applicant, who informs that his father had left the court with 3 to 4 people in a big car. When Yogesh was called for interrogation in regard to the missing complaint in Shivajinagar Police Station, he gave evasive answers and, that is why, he suspected him. On 07/09/2018, the body of one unknown person was found floating in the river and it was identified to be that of his father. The two accused persons are arraigned as accused in the FIR.

3. The evidence compiled in the charge-sheet is in the form of circumstances and most important circumstance being 'the

last seen together theory'. The Applicant was last seen with the deceased on 29/08/2018 and the Complainant was informed about this on 30/08/2018. Further, in the statement recorded on 18/09/2018, Dhanshree Murkute, referred to a telephonic talk with her father-in-law, where he had disclosed to her that he was in the company of the present Applicant and the other accused Bhausahab Malvadkar, who had taken him near Khandoba Temple. This is, however, not disclosed at the time of lodging of the missing complaint. This is the precise reason why the co-accused was found to be entitled for being released on bail. Similar circumstances are compiled in the charge-sheet against the present Applicant. The only circumstance, which would indict the Applicant is the recovery of a vehicle, which at this stage, cannot conclude the chain of circumstances pointing out the guilt of the Applicant. It is also not reported that the Applicant has any antecedents. In such circumstances, I see no reason why the benefit of the order of co-accused shall not be extended to the present Applicant. Hence, the following order:

: ORDER :

- (a) The Applicant – **Yogesh Dattatray Murkute**, shall be released on bail in C.R. No.955 of 2018 registered with the Lonikand Police Station, District Pune, on executing P.R. bond to the extent of Rs.20,000/- and furnishing one or two sureties of the like amount.

(b) 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.

(c) The Applicant shall mark his attendance in the Sessions Court, once in every two months.

4. The Application is disposed of in the aforestated terms.

5. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]