

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

23 BAIL APPLICATION NO.18 OF 2022

KAILAS PANDURANG SHINGANE (BHOI)
VERSUS
THE STATE OF MAHARASHTRA

...
Sr. Advocate for Applicant : Mr. R.S. Deshmukh i/b. Deshmukh Devang R.
APP for Respondents/State : Mr. G.O. Wattamwar
...

CORAM : M.G. SEWLIKAR, J.
DATE : 7th March, 2022

PC:-

Heard.

2. Informant is the father of Prakash Choudhari (since deceased).
3. Prakash Choudhari had paid Rupees One Lakh to the applicant for getting the contract of laying cable wire. But, applicant did not give him contract. Therefore, Prakash Choudhari was demanding Rupees One Lakh from the applicant. On that count there used to be exchange of words between the applicant and Prakash Choudhari.
4. On 26th August, 2021, Prakash Choudhari did not come back till 8.00 pm. Therefore at 10.30 pm, informant made a call to Prakash Choudhari on his cell phone no.9834999085. Prakash Choudhari told the informant that

he was at Sindhi Camp and was on his way home. At 3.00 am, informant noticed that deceased had not returned home. Therefore, he made a call to the deceased. The call was connected but the deceased did not answer the call. On 27th August, 2021 at 7.00 am he was at the shop of Murli Seth at that time he got a message to get back home immediately. When he went home, his wife told him that dead body of Prakash Choudhari was found in the Hasimji Premji complex on second floor. She told him that throat of Prakash Choudhari was slit. Thereafter, he went to Hasimji Premji complex and found deceased lying in a pool of blood. He expressed suspicion on the applicant for having murdered Prakash Choudhari on account of dispute between Prakash Choudhari and applicant.

5. Applicant was arrested. During investigation blood stained knife, clothes and mobile of deceased were seized. After completion of investigation, charge-sheet came to be filed under Section 302, 201 of the I.P.C.

6. Learned senior counsel Shri Deshmukh submits that the only evidence against the applicant is that blood smeared knife from the shop of the applicant and mobile of deceased was also seized from the shop of the applicant. He submits that both these circumstances are not cogent enough to connect the applicant with the offence. He submits that CA report is not yet

received. He submits that there is no evidence to show that sim card seized from the applicant was of Prakash Choudhari.

7. Learned APP Shri Wattamwar submits that location of applicant and deceased was same. There are statements of witnesses indicating that applicant had a dispute with Prakash Choudhari on account of failure to repay an amount of Rupees One Lakh which the applicant had taken from Prakash Choudhari for giving the contract of laying cable wire. He further submits that applicant had purchased knife from the shop of Harish Sevakram Lulla and the same knife was used in committing the offence. He submits that these circumstances are sufficient to show the involvement of the applicant in the commission of the offence.

8. I have considered submissions of counsel on both the sides.

9. So far as handset and sim card allegedly seized from applicant are concerned, there is no evidence to show that said sim card belonged to Prakash Choudhari. FIR mentions the number of deceased as Prakash Choudhari as 9834999085, whereas, recovery panchanama shows that handset of Oppo company having sims of Jio company and Vodafone bearing serial nos. as 89918640400107623139 and 8991272173017917756 respectively.

10. There is nothing on record to show that these two numbers belonged to Prakash Choudhari. So far as recovery of blood stained knife and cloth is concerned, CA report is yet to be received. During trial it will only be clear whether location of the applicant and deceased was the same. At this *prima facie* stage all these nuances need not be gone into. Charge-sheet is filed. There are no criminal antecedents against the applicant. Applicant is not likely to flee from justice as he has a shop at Amalner, District, Jalgaon. In view of this, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.40,000/- with one solvent surety in the like amount, in connection with Crime No.361/2021 under Section 302, 201 of the I.P.C. with Amalner Police Station, District Jalgaon on condition that she shall not tamper the prosecution evidence.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]