

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

928 BAIL APPLICATION NO.83 OF 2022

1. Raosaheb S/o Anandrao Kadam
Age: 46 years, Occu: Agriculture,
R/o: Limgaon, Tq. & Dist. Nanded

2. Sheedhar S/o Kerba Arsule
Age: 24 years, Occu: Agriculture,
R/o: Ekdara, Tq. Ardhapur,
District: Nanded

... Applicants

Versus

The State of Maharashtra,
Through Investigation Officer,
Police Station, Ardhapur,
Tq. Ardhapur, Dist. Nanded.

... Respondent

...

Mr. V. S. Kadam, Advocate for the Applicant
Smt. R. P. Gour, APP for the Respondent

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CORAM : M. G. SEWLIKAR, J.

DATE : 17th February, 2022

PER COURT :

This an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail in connection with Crime No.142/2021 registered with Ardhapur Police Station, District Nanded, for the offences punishable under Sections 363, 323 and Section 34 of the Indian Penal Code.

2. Deceased–Rupesh was the son of informant. It is alleged that on 12th June, 2021 at 11:00 a.m., one Hanmant informed the informant that there was a quarrel between the deceased-Rupesh and one Gajanan Arsule and Gajanan Arsule had abducted his both sons i.e. Rupesh aged 19 years and Ganesh aged 14 years. Accordingly, he lodged First Information Report.

3. During investigation, it transpired that on 12th June, 2021 at 2:00 p.m. accused–Gajanan Arsule and the applicant-Raosaheb abducted Rupesh and minor son of the informant by the name of Ganesh in TATA Mini Tempo belonging to the informant. They were taken to a School in Village Umri. Rupesh was beaten there. Thereafter, dead body of Rupesh was found in a well. Thereafter, the informant lodged the report in the police station.

4. During investigation, statement of Ganesh-son of the informant was recorded in which he has stated that on 12th June, 2021, he and Rupesh were assaulted by the applicants and other accused. Rupesh got himself released and ran away from that spot. The applicant and other accused chased him. After some time, they came back. When Ganesh asked the applicants and other accused as to where Rupesh was, applicant and other accused told that Rupesh ran away.

5. Charge-sheet is filed. On perusal of the charge sheet, it is seen that incident took place on 12th June, 2021 at 4:00 p.m. The applicant and other accused chased the deceased and came back and told Ganesh that Rupesh ran away. This incident must have occurred between 4:00 am and 6:00 am. However, report of Police Patil Suryawanshi of Village Mendhaka shows that on 12th June, 2021 at 8:00 p.m., he got the information that one boy jumped into the well. The dead body was fished out on 30th June, 2021 in the after noon at 2:00 pm. This clearly shows that deceased jumped into the well after he parted with the company of the applicant and other accused. The cause of death is due to cardio respiratory arrest, due to drowning. The time gap between the applicant parted with the company of the deceased and the finding of the dead body is more than 30 hours. The intimation given by the police patil shows that he got the news that someone jumped into the well on 12th June, 2021 at 8:00 pm. Thus, there is a large time gap between parting of the company of the deceased with the applicant and the finding of dead body. There is no eye witness to the incident. In this view of the matter, since evidence in this case is not cogent, I am inclined to release the applicants on bail. Hence, the following order:-

ORDER

- (i) Application is allowed.
- (ii) Each of the applicants be released on bail on PR bond of Rs.30,000/- (Rupees Thirty Thousand Only) with one solvent

surety each in the like amount in connection with Crime No.142/2021 registered with Ardhapur Police Station, District Nanded, for the offences punishable under Sections 363, 323 and 34 of the Indian Penal Code, on condition that they shall not pressurize the witnesses and they shall attend the concerned Police Station once in a month i.e. on every first day of each month till filing of the charge-sheet.

6. 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.

(M. G. SEWLIKAR, J.)

Sameer