

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

**934 BAIL APPLICATION NO.95 OF 2022
WITH APPLN/574/2022**

**MAHADEV GUNDIBA MANE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Gunale V.D.
APP for Respondents/State : Mrs. R.P. Gour
Advocate for Informant in Appln/574/22: Mr. Kuldeep Patil

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**CORAM : M.G. SEWLIKAR, J.
DATE : 16th February, 2022**

PC.:-

Heard learned counsel for the applicant.

2. Prosecution case in short is that on 6th January, 2021 at 9.00 pm cousin of the informant by the name of Dhanraj Bhong had left the house and did not return till the morning. Therefore, the informant went to the field and found the deceased dead in the morning at 9.00 am on 7th January, 2021. He was killed by the applicant by means of stone and stick, on account of agricultural land dispute. Accordingly, offence was registered under Section 302 of the I.P.C. vide Crime No.01/2022 registered with Bhada Police Station, District Latur.

3. Charge-sheet has been filed.

4. Learned APP Smt. Gour and learned counsel Shri Kuldeep Patil submit that one Rajendra Bhong had seen applicant and the deceased together at 10.30 pm on 6th January, 2021 and he has further stated that some verbal altercation was going on between them. He told them not to quarrel and went away. He submits that thereafter dead body of the deceased was found. This clearly shows that the deceased was killed by the applicant.

5. Except this evidence there is no other evidence to connect the applicant with this offence. Admittedly, on 6th January, 2021 at 10.30 pm witness Rajendra Bhong had seen the deceased and the applicant having verbal altercation. It means that on 6th January, 2021 at 10.30 the deceased was alive. However, post mortem report shows that post mortem was conducted on 7th January, 2021 at 1.00 pm and it was over at 2.00 pm. It further shows that there were signs of decomposition in the form of peeling of skin. Learned author C. K. Parikh, in his book on Medical Jurisprudence, Forensic Medicine and Toxicology, eighth edition at Page-164, has made the following observations;

“The skin from hand or foot may peel off like a glove/stocking in 48/72 hours. The nails stay with the skin. Such peeling off is also observed in severely burned bodies and in cases of drowning when the dead body remains in water for two days or more.”

This clearly shows that death occurred at least 36 hours prior to 6th January, 2021. Therefore, it is difficult to accept that the deceased was seen alive on 6th January, 2021 at 10.30 pm. Therefore, prosecution evidence is not cogent enough to incarcerate the applicant. In this view of the matter, 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.15,000/- with one solvent surety in the like amount, in connection with Crime No.01/2022 under Section 302 of the I.P.C. with Bhada Police Station, District Latur on condition that he shall not enter village Jayphal, Tq.Ausa till the conclusion of the trial.
- III) Application for assist to APP is also disposed of.
- IV) 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.]