

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

919 BAIL APPLICATION NO.107 OF 2022

**VANSING @ KALYA BUGYA PAWAR
VERSUS
THE STATE OF MAHARASHTRA**

Shri. T. G. Gaikwad, Advocate for the applicant
Shri. G. O. Wattamwar, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 15th March, 2022**

PER COURT :-

1. Heard.

2. Informant is the son of the deceased Chandrasingh More. On 10th July, 2020, deceased Chandrasingh More left the house at 06.30 p.m. for Mhasavad. He did not come back in the night. The informant and his mother searched for deceased Chandrasingh. During their search, they came to know that Ravindra Motiram Bhil had seen Chandrasingh More on 10th July, 2020 at 06.30 p.m. to 07.00 p.m. with applicant and other accused Onkar Narayan Sonawane also called as Onkar Ratilal Padvi. Since deceased was not found, on 14th July, 2020 at 08.00 a.m. informant and Ravindra Bhil set out for searching deceased Chandrasingh More. Dead body of the Chandrasingh More was

found in the field of Raman Somaji Patel at 09.30 a.m. He found that dead body was in decomposed state. Accordingly, FIR was lodged.

3. During investigation it was revealed that deceased Chandrasingh More was last seen in the company of applicant and Onkar Sonawane @ Onkar Ratilal Padvi. Applicant and other accused were arrested. Charge-sheet came to be filed.

4. Learned counsel Shri. Gaikwad submits that this is the first bail application of the applicant after filing of charge-sheet. He submits that applicant is behind bars for more than one and half years. He submits that there is no evidence connecting the applicant with the offence. Last seen theory is alleged against the applicant. He submits that last seen theory is a weak type of evidence. There is recovery of sickle but it doesn't have blood stains.

5. Learned APP Shri. Wattamwar submits that deceased was seen in the company of applicant and another accused Onkar Narayan Sonawane also called as Onkar Ratilal Padvi. He submits that Ravindra Motilal Sonawane has stated in his

statement that he had seen deceased along with applicant and Onkar Sonawane. He submits that thereafter dead body of applicant was found. It is therefore for the applicant to explain the circumstances in which he parted with the company of the deceased. There is no explanation from applicant as to how he parted company with the deceased. He, therefore, seeks rejection of the application.

6. Applicant was arrested on 14th July, 2020. He is behind bars more than one and half years. Except last seen theory there is no evidence against the applicant which can connect the applicant with the offence. Sickle is seized from the applicant. However, it is of no assistance to the prosecution at this stage as it doesn't have blood stains. Charge is framed but evidence has yet not begun. Therefore, applicant cannot be detained behind bars for an indefinite period. Applicant has no criminal antecedents. In this view of the matter, I am inclined to release the applicant on bail. Role of the accused is one of the considerations for releasing the accused on bail as held by the Hon'ble Supreme Court in the case of ***Sushila Aggarwal Vs. State of (NCT of Delhi)*** reported in ***(2020)5 SCC 1***, the

Hon'ble Supreme Court has held that while considering an application for bail the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence and likelihood of fleeing justice. As stated earlier, applicant does not have criminal antecedents. Therefore, there is no likelihood of the applicant repeating the same offence again. In this view of the matter, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- (Rupees Fifty Thousand only) with one solvent surety in the like amount in connection with CR No. 0306 of 2020 under Section 302 read with Section 34 of the Indian Penal Code registered with Shahada Police Station, Dist. Nandurbar, on condition that he shall not tamper the prosecution evidence.
3. Application is disposed of.
4. It is clarified that the observations made in the above order are restricted to the decision of this application only and

the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp