

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

936 BAIL APPLICATION NO.238 OF 2022

Shankar s/o Kashinath Jakte
Age: 43 yrs., Occu.: Agril.,
R/o. Pimparkhed, Tq.Parner,
Dist.Ahmednagar.

..Applicant

VERSUS

The State of Maharashtra
Through Police Inspector,
Belwandi Police Station,
Tq.Shrigonda, Dist.Ahmednagar.

..Respondent

...
Advocate for Applicant : Shri Shashikant E.Shekade
APP for Respondent : Shri A.A.Jagatkar

...
CORAM : M.G.SEWLIKAR, J.

DATE: 16th March, 2022

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No.0288 of 2021, registered with Belwandi Police Station, Tq.Shrigonda, District Ahmednagar, under Sections 302, 201 read with Section 34 of the Indian Penal Code and under Section 3 of the Arms Act.

2. Facts leading to this application in nutshell are that informant is the son of Pandurang Jaiwant Pawar (since

deceased). It is the prosecution's case that on 10th July, 2021 at 10:00 a.m., the deceased and the applicant had gone to Parner on account of some work of the applicant. He came to know that the deceased and the applicant met Datta Latamble and Shivdas Raskar.

3. On 11th July 2021 till 05:00 a.m., the deceased did not return home. Informant got a call from the Police Station. Therefore, he went to the Police Station where he was informed that a dead-body of an unknown person was found at Irrigation Colony, Devdaithan, Tq.Shrigonda. He identified the dead-body to be of his father. His father had injuries on his head and on his fore-head. He expressed suspicion on the applicant, accused Shivdas Raskar and Datta Latamble. On these allegations, FIR came to be lodged.

4. Heard Shri S.E.Shekade, learned counsel for the applicant and Shri A.A.Jagatkar, learned APP for the respondent.

5. Learned counsel for the applicant submits that the only evidence against the applicant is last seen theory. He submits that Akshay Bankar had seen the applicant and deceased Pandurang together. However, identification parade has not

been held. He submits that Akshay Bankar does not know the applicant. Therefore, there is no evidence against the applicant.

6. Learned APP for the respondent submits that there is evidence of Akshay Bankar, which shows that Akshay Bankar had seen the applicant and deceased Pandurang together. Soon thereafter, dead-body of the deceased was found. He submits that this indicates involvement of the applicant in the commission of the offence. He submits that in the Police Station, applicant was identified by Akshay Bankar. Therefore, there is evidence against the applicant. He submits that the deceased was murdered and taken in the car of the applicant to Irrigation Colony which is adjacent to Devdaithan road. He submits that there were tyre marks at the spot. Car of the applicant has been recovered from the applicant.

7. Admittedly, Akshay Bankar, Harshad Gaikwad and one more witness had seen the applicant and deceased Pandurang together. It is not the prosecution's case that these three persons were knowing the applicant and other two accused. Therefore, identification parade ought to have been held. Identification before the Police in the Police Station is not identification Parade at all. So far as tyre marks are concerned,

investigation does not show that these tyre marks are of the car of the applicant. Applicant has no criminal antecedents. He is not likely to flee from justice. He has permanent residence at Ralegaon Siddhi, Tq.Parner, District Ahmednagar. Having regard to the nature of the evidence collected by the prosecution, I am inclined to release the applicant on bail.

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.30,000/- (Rs. Thirty thousand only) with one solvent surety in the like amount, in connection with Crime No.0288 of 2021, registered with Belwandi Police Station, Tq.Shrigonda, District Ahmednagar, under Sections 302, 201 read with Section 34 of the Indian Penal Code and under Section 3 of the Arms Act, and on condition that he shall not tamper the prosecution evidence.
- iii) Bail Application is disposed of.
- iv) It is clarified that the observations made in this 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)
JUDGE**