

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

**BAIL APPLICATION NO. 248 OF 2022
WITH
CRIMINAL APPLICATION NO. 984 OF 2022**

**VIPIN S/O HARIBHAU GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA**

Shri. P. P. More, Advocate for the applicant
Shri. S. B. Narwade, APP for the respondent/State
Shri. S. C. Swami, Advocate for the informant (Absent)

**CORAM : M. G. SEWLIKAR, J.
RESERVED ON : 25th March, 2022
PRONOUNCED ON : 7th April, 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. 0278 of 2021 registered with Murud Police Station, District Latur for the offence punishable under Sections, 302, 201 read with Section 34 of the Indian Penal Code.

2. Informant is the father of the deceased Dagadu Haribhau Gaikwad and applicant Vipin Haribhau Gaikwad. Applicant is the elder son. Relations of the applicant with

informant and his mother are not good. Once the applicant had assaulted the informant by means of a glass.

3. Dagadu (since deceased) was missing since 6th October, 2021. Therefore, applicant had filed missing report with Murud Police Station. Informant and others made enquiries about the missing of deceased Dagadu. It transpired during the enquiry that applicant was also missing from the house in the said night. It also transpired that accused Vikas Dhane had called deceased Dagadu. Informant suspected that applicant must have killed deceased Dagadu. Later on it was found that dead body of Dagadu was found in the bank of river Manjara in village Kopra. Dead body was in decomposed state. On these allegations FIR came to be lodged.

4. Heard Shri. More learned counsel for the applicant and Shri. Narwade, learned APP for the respondent/State. Shri. Swami, learned counsel for assisting APP was absent when the matter was called out.

5. Learned counsel Shri. More for the applicant

submitted that there is inordinate delay in lodging the FIR. The applicant had filed missing complaint of Dagadu in the Police Station and applicant had also participated in the search of Dagadu. There is no eye witness to the incident. He further submitted that as per prosecution case on 6th October, 2021 Dagadu received phone call and thereafter he went to his agricultural land. There is no allegation that said phone call was made by applicant. No evidence was adduced to show that the said phone call was made to deceased Dagadu by the applicant. No call detail records are filed. As per panchnama dead body was carried by the way proceeding from Tandulja-Sarsa-Devala-Anjanpur-Kopra-Dhanora Chowk and thereafter a bridge in vicinity of village Tat Borgaon. It is well nigh possible that nobody witnessed carrying of dead body for such a long distance. He submitted that there is no evidence to show that applicant and Vikas Dhane together committed murder of the deceased. Learned counsel Shri. More submitted that there is no evidence to show that on 6th October, 2021 applicant and deceased were together. Shri. More, learned counsel submitted that applicant has no criminal antecedents.

6. Learned APP Shri. Narwade submitted that there are witnesses to set that in the night of the incident applicant and accused Vikas Dhane were together in the night of the incident. Weapon is seized at the instance of the applicant. He submitted that everyone including the parents of the applicant and even his wife has given statements against the applicant. In view of this, applicant is not entitled to release on bail.

7. Charge-sheet is filed.

8. Statements of the informant, mother and wife of the accused show that applicant had threatened Dagadu alias Vishal to kill him. All of them have stated that the applicant was intending to get entire family property and therefore, he has eliminated his younger brother Dagadu with the help of accused Vikas Dhane. There is no reason for parents and wife of the applicant to falsely implicate the applicant in this offence. It is true that applicant did not make any phone call to the deceased. The phone call was made by Vikas Dhane and he was called by Vikas Dhane.

9. Witnesses are the parents and wife of the applicant. From their statements it appears that applicant is not on good terms with his parents. Therefore, if he is released on bail there is every possibility of tampering the prosecution witnesses.

10. Having regard to what is stated herein above, I am not inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is dismissed.
2. Pending application, if any, stands disposed of.

[M. G. SEWLIKAR, J.]

ssp