

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

941 BAIL APPLICATION NO.316 OF 2022

Gajanan Kerba Arsule
Age: 30 years, Occu.: Agriculture,
R/o.Ekdara, Tq.Ardhapur,
Dist.Nanded. ..Applicant

VERSUS

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

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**WITH
BAIL APPLICATION NO.317 OF 2022**

Ganesh Dnyanoba Gawate
Age; 35 years, Occu.: Agriculture,
R/o. Penur, Tq.Loha,
Dist.Nanded. ..Applicant

VERSUS

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

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Advocate for Applicants : Shri Vikram S. Kadam
APP for Respondent : Shri G.O.Wattamwar

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CORAM : M.G.SEWLIKAR, J.

DATE: 16th March, 2022

PER COURT :-

1. Both these applications are being disposed of by common order as they arise out of the same offence.

2. Heard.

3. Prosecution's case in brief is that Rupesh (since deceased) was the son of the informant. On 12th June 2021 at 11:00 a.m., one Hanmant informed the informant that there was a quarrel between deceased Rupesh and one Gajanan Arsule and Gajanan Arsule abducted both the sons of the informant by the name of Rupesh aged 19 years and Ganesh aged 14 years. Accordingly, report came to be lodged on the basis of which Crime No.0142 of 2021, came to be registered with Ardhapur Police Station, District Nanded, under Sections 302, 363, 364, 323, 143, 147, 149 read with Section 34 of the Indian Penal Code.

4. During investigation, it transpired that on 12th June 2021 at 02:00 a.m., accused Gajanan Arsule (applicant in Bail Application No.316 of 2022) and accused Raosaheb abducted deceased Rupesh and minor son of the informant by the name of Ganesh in Auto bearing registration No.MH-14 HU-9865 belonging to informant. They were taken to a School at village Mandala Ramkhadak. Deceased Rupesh was beaten there. Thereafter, dead-body of Rupesh was found in a well.

5. Charge-sheet is filed.

6. Statement of Ganesh Ramesh Suryawanshi was recorded in

which he has stated that on 12th June 2021, he and deceased Rupesh were assaulted and abducted by the applicant and other accused. Deceased 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 applicant and other accused as to where deceased Rupesh was, applicant and other accused told that deceased Rupesh ran away. This incident took place on 12th June 2021 at 07:00 to 07:30 a.m.

7. On perusal of the charge-sheet, it is seen that incident took place on 12th June 20221 at 01:30 to 02:00 a.m. The applicant and other accused chased the deceased and came back and told Ganesh that deceased Rupesh ran away. This incident according to Ganesh happened at 05:00 to 05:30 a.m. However, report of the Police Patil - Mohan Laxmanrao Suryawashi of village Ramkhadak shows that he got information that one boy jumped into a well on 12th June 2021 at 08:00 p.m. The dead-body was fished out on 13th June 2021 in the afternoon at 02:00 p.m. This clearly shows that the the deceased jumped into the well after he parted 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 deceased parted company of the applicant and jumped into the well is more than 12 hours.

Thus, there is a large time gap between parting time of the company of deceased Rupesh with the applicants and jumping into the well by deceased Rupesh. There is no eye witness to the incident. Applicants have no criminal antecedents. Hence, they are not likely to flee from justice. Hence, I pass the following order :

ORDER

- i) Bail Application Nos.316 of 2022 and 317 of 2022 are allowed.
- ii) Each of the Applicants 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.0142 of 2021, registered with Ardhapur Police Station, District Nanded, under Sections 302, 363, 364, 323, 143, 147, 149 read with Section 34 of the Indian Penal Code and on condition that they shall not pressurize the witnesses and they shall not tamper with the prosecution evidence.
- iii) Bail Applications are disposed of.
- iv) It is clarified that the observations made in this order are restricted to the decision of these applications 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**