

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

BAIL APPLICATION NO.815 OF 2022

Dhanaji s/o. Suryabhan Waghmare	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr.P.P.More, Advocate for applicant
Mr.N.T.Bhagat, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : AUGUST 12, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0366 of 2021 registered with Nilanga Police Station, Dist.Latur.

2. Heard learned counsel appearing for the parties.
4. Learned APP has strongly opposed the application.
3. The FIR has been lodged by the brother of the deceased on 18.12.2021. It is his case that the deceased had been to Solapur to earn his living. Just eight days prior to lodging of the FIR, he had returned from Solapur to the village. During his absence, the applicant

and the co-accused Avinash would visit his residence frequently. It is also alleged that Avinash had extra-marital relationship with the wife of deceased. On the given day, i.e. on 12.12.2021 by 7.00 p.m., while the deceased had returned home, he saw that the applicant and the co-accused Avinash were present at his residence. There was quarrel/heated arguments between the deceased and his wife Manisha. Thereafter, deceased left home for no return. In the following morning, his dead body was found in the sugarcane field.

4. The post mortem examination report indicates that the deceased died of asphyxia due to hanging. On the next day of lodging of the FIR i.e. on 19.12.2022, the informant gave supplementary statement, stating therein that after the deceased had quarrel with his wife, he came out of the house. He was in inebriated state. As a result, he fell in the court-yard of his residence. He suffered head injury. Still, he went out of the house. He was immediately followed by the applicant and the co-accused Avinash together.

5. On close scrutiny of the police papers, it appears that this is the only material stated to be incriminating against the applicant herein.

6. The FIR has been lodged six days after the alleged incident. The informant has changed his version in his supplementary statement. Without observing anything about the merit of the matter, suffice it to say that the applicant deserves to be granted bail.

7. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0366 of 2021 registered with Nilanga Police Station, Dist.Latur, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

[R.G. AVACHAT, J.]

KBP