

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

BAIL APPLICATION NO. 991 OF 2021

Parmeshwar Pratap Pardhi

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

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Mr. R.S. Deshmukh, Senior Advocate i/b Mr. D.R. Deshmukh, Advocate for applicant

Mr. N.T. Bhagat, A.P.P. for respondent - State

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**CORAM : R.G. AVACHAT, J.
DATE : 24th AUGUST, 2022**

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 204 of 2020 registered with Jamner Police Station, Dist. Jalgaon for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by father of the deceased on 30th July, 2020. It has been averred in the F.I.R. that applicant is the brother-in-law

(brother of the wife of informant's son) of the deceased – Bhagwat. The applicant and his brothers would not allow their sister – Surekha to cohabit with the deceased. They would frequently pick-up quarrel with the deceased and take back Surekha to her parent's house.

4. Fifteen days before 29th July, 2020, Surekha had left her matrimonial home for her parental one after having quarreled with her husband – Bhagwat (deceased). He (deceased) had, therefore, been to the house of his father (informant) to take meals on 29th July, 2020. The applicant came to the informant's house by 06.00 p.m. and took Bhagwat (deceased) with him towards Jamner. Since the deceased did not return home, somewhat late in the evening, a search was made for him. On the same night, one Gopal Borse made a call to the informant and told that the applicant had claimed to have killed Bhagwat in the Jamner Ghat. On the following morning, the informant and his relations went to the police station. They took search for Bhagwat in Jamner Ghat section alongwith police staff to find the dead body of the informant's son.

5. During investigation, it was found that the applicant had himself appeared at the police station and told to have killed the deceased with the knife blows. He produced the knife there. Police had taken search of the dead body in the *ghat* section, but could not trace, since it was drizzling and

due to darkness as well. Postmortem report indicates the deceased died of strangulation. Antemortem injuries were noticed on his person. On investigation, the charge-sheet came to be filed.

6. Learned counsel for the applicant would submit that the case is based on circumstantial evidence. Except the alleged last seen theory, there is nothing to indicate applicant's involvement in the alleged crime. The applicant has been behind the bars for little over two years. Trial has not yet commenced. He, therefore, urged for grant of application.

7. Learned A.P.P would, on the other hand, urge for rejection of the application on the ground of seriousness of offence. The knife delivered by the applicant had blood stains on it. The C.A. report indicates the same. There are statements of the independent persons to indicate the applicant to have had taken the deceased with him.

8. Considered the submissions advanced. The case is based on circumstantial evidence. The applicant is brother-in-law of the deceased. Motive for the offence is said to be the deceased to have not been treating his wife (sister of the applicant) well. On the given day i.e. on 29th July, 2020, the applicant allegedly took the deceased on his motorbike towards Jamner. To this effect there are statements of independent persons. This indicates the

deceased and the applicant were last seen together. The dead body of the deceased was found on the following day. Exact time of the death is not known. The applicant had, on his own, appeared at police station on the night of 29th July, 2020. He delivered a blood stained knife there. As per the station diary entry, the police had, therefore, taken search in the *ghat* section. The dead body could not be found as it was drizzling. It is however, not known as to why the police did not arrest the applicant then and there. The applicant is shown to have been arrested on 31st July, 2020 i.e. one and half day after the alleged incident. Initially the case was reported as murder on account of injuries due to knife blows. The postmortem report indicates the deceased died of strangulation. True, there were antemortem injuries. The medical officer has further opined that the injuries caused by the knife were simple in nature and death was not caused thereby.

9. As such, the prosecution case mainly rests on the last seen theory and motive. For little over two years the applicant is in jail. He is twenty-one years of age. Trial has not yet commenced. It will take time for commencement and conclusion of trial.

10. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

- (I) The bail application is allowed.
- (II) The applicant be released, in connection with Crime No. 204 of 2020 registered with Jamner Police Station, Dist. Jalgaon for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 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 enter village Chinchkheda(Bu.), Tq. Jamner, Dist. Jalgaon till conclusion of trial.
- (IV) The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

SSD