

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

APPLICATION FOR CANCELLATION OF BAIL NO.168 OF 2021

**GANESH MARUTI KANKUTE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Smt. Ashlesha Kulkarni h/f. Mr. S.J. Salunke, Advocate for the applicant.
Mr.V.M. Kagne, APP for the respondent/State.
Mr.S.S. Rathi, Advocate for respondent No.2.

**CORAM : SMT. VIBHA KANKANWADI, J.
DATED : 17.03.2022**

PC :-

01. Present application has been filed under section 439(2) of the Cr.P.C. to challenge order dated 25.05.2021 passed by the learned Additional Sessions Judge, Parbhani in Sessions Trial No.90 of 2020 below Exh.5, granting bail under section 439 of the Cr.P.C. to respondent No.2. The applicant is father of deceased and the offence charged in the case is under section 302 of the Indian Penal Code.

02. Heard Smt. Ashlesha Kulkarni h/f. Mr. S.J. Salunke, learned Advocate for the applicant, Mr.V.M. Kagne, learned APP for respondent-State and Mr.S.S. Rathi, learned Advocate for respondent No.2.

03. The prosecution story is that one Dnyaneshwar Atmaram Yadav, who is an agriculturist in village Rampuri (Bk) has lodged report when he found a dead-body of a lady in slightly decomposed state in his field at about 8.00 a.m. on 08.02.2020. The head of the body was separate from the body. The investigation was undertaken and it is prosecution story that the accused had illicit relations with deceased and he got annoyed when the deceased was keeping relations with other persons and therefore he had called the deceased in the field and by assaulting her with *Katti*, she was beheaded and the murder was committed.

04. It is to be noted from the charge-sheet that the deceased was a married lady and she was having a daughter and a son. The husband used to go for sugarcane cutting work and from the statement of the husband it appears that even he was knowing that wife had illicit relations with the accused. Other statements which have been recorded are on the same line that the lady had illicit relations with the accused. The case is based on circumstantial evidence. The accused was in jail since 15.02.2020 and when he made application under section 439 of the Cr.PC., already charge-sheet was

filed and the case was committed for trial. Therefore, every record was before the Additional Sessions Judge. He has taken note of the statements on record. Except identification parade in which it is stated that one auto driver had identified the accused, there is no direct evidence. Therefore, when all the factors were considered by the Additional Sessions Judge, there is no reason to disturb the well reasoned order.

05. The application stands rejected.

[SMT. VIBHA KANKANWADI, J.]