

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

921 BAIL APPLICATION NO.1413 OF 2021

**BHURJI HURJI PAWRA (BHIL)
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Jain Gajendra Devichand
APP for Respondents/State : Mr. G.O. Wattamwar
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 4th January, 2022**

PC.:-

Heard.

2. Prosecution case is that dead body of the deceased was found on 18.01.2021 at 10.00 am. Dead body was identified to be of the deceased. From the appearance of the dead body, it could be made out that the death was a homicidal death, therefore, offence under Section 302 of the I.P.C. was registered against unknown persons.

3. During investigation, name of applicant came to the fore as he was the person last seen in the company of the deceased. It is alleged that the deceased had paid Rs.17,000/- to the applicant for purchasing a motorcycle. Applicant could not return this amount despite repeated demands by the

deceased. Therefore, deceased called the applicant a beggar which did not go down well with the applicant. Therefore, he committed murder of the deceased. Accordingly, applicant was arrested.

4. Learned counsel Shri Jain for the applicant submits that except last seen theory, there is no evidence to connect the applicant with the offence. Learned APP Wattamwar submits that there are statements of witnesses indicating that applicant was with the deceased throughout. There is evidence to show that till the day of the incident applicant was with him. Therefore, applicant is the author of the crime.

5. Statement of manager of Sudarshan Petrol Pump by the name of Moin Mubin Malak has been recorded. It shows that on 17.01.2021 at 11.15 am to 11.40 am both the applicant and deceased had been to the petrol pump of this witness. Statement of Sarita Pawra the wife of the applicant shows that applicant had been to her house on 16.01.2021. At that time, the deceased was also with her. Thus, the only evidence prosecution could collect against the applicant is that the deceased was in his company till 17.01.2021 at 11.00 am. Dead body was found on 18.01.2021 at 10.00 am. Thus, the evidence collected by the prosecution clearly shows that the deceased was last seen with the applicant on 17.01.2021 at the petrol pump of witness-Moin Mobin Malak. There is a gap of almost one day between the time the deceased was

last seen in the company of the applicant and the finding of the dead body by the informant. Last seen theory is a weak type of evidence. In this view of the matter, I am inclined to release the applicant on bail. In view of this, following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.50,000/- with one solvent surety in the like amount, in connection with Crime No.60 of 2021 under Section 302 of the I.P.C. registered with Taloda Police Station, District Dhule on condition that he shall not pressurise the witnesses and shall not temper with the prosecution evidence and co-operate the trial Court in early disposal of the trial. .
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]