

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

918 BAIL APPLICATION NO.1445 OF 2021

Keshav S/o Bapu Aasne
Age: 26 years, Occu.: Agri.,
R/o. At post Padhegaon,
Tq.Kopargaon, Dist.Ahmednagar. ..Applicant

VERSUS

The State of Maharashtra
Through Kopargaon Taluka Police Station,
Dist.Ahmednagar. ..Respondent

...
Advocate for Applicant : Shri Sachin S. Deshmukh
APP for Respondent : Shri V.S.Badakh

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CORAM : M.G.SEWLIKAR, J.

DATE: 14th January, 2022

PER COURT :-

1. Heard.
2. Shri S.S.Deshmukh, learned counsel for the applicant submits that deceased Mahesh was the son of the informant. Accused Chetan Aasne was hired by the deceased as a Driver on the Tractor of the deceased. The deceased suspected the intention of the accused Chetan. He suspected that he had an evil eye on the wife of the deceased by the name of Mohini. The deceased, therefore, terminated the services of accused Chetan.

3. On the date of incident i.e. on 1st July, 2021 at 09:00 p.m., deceased Mahesh left the house hurriedly on Motorcycle. He did not tell his mother or wife where he was going. He did not return for a considerable length of time. Informant asked Rahul Shinde as to where the deceased had gone. Rahul informed the informant that he had seen Motorcycle of deceased Mahesh parked in front of house of accused Chetan and he had seen accused Chetan leaving the spot in Pick-up Van. Thereafter, dead body of deceased Mahesh was found at village Harsool. FIR came to be lodged by Sunita, the mother of the informant, on the basis of which Crime No.0249 of 2021 came to be registered with Kopergaon Rural Police Station, District Ahmednagar, under Sections 302, 364, 201, 323, 34 of the Indian Penal Code

4. Shri Deshmukh, learned counsel for the applicant submits that witness Rahul Shinde had seen the applicant in front of the house of accused Chetan and he had seen Pick-up Van leaving the house of accused Chetan. He submits that except this, there is no evidence to connect the applicant with the incident.

5. Shri V.S.Badakh, learned APP for the respondent submits that there is Memorandum under Section 27 of the Evidence Act vide which role of the applicant came to be surfaced.

6. Witness Rahul Shinde's statement has been recorded. He has stated that when he went to the house of accused Chetan, he saw one Pick-up Van leaving the house of accused Chetan towards Kopargaon. He had seen the applicant in front of the house of accused Chetan. Thus, *prima-facie*, it appears that applicant is not the author of the crime.

7. Memorandum under Section 27 of the Evidence Act shows that deceased Mahesh had been to the house of accused Chetan and he questioned accused Chetan about his relation with wife of the deceased. Thereafter, accused Chetan assaulted the deceased by means of an axe. He has also stated in the Memorandum that deceased was beaten by the applicant. This is a confessional statement of co-accused involving the applicant. This statement is inadmissible in evidence. Thus, the only evidence that is available against the applicant is that he was standing in front of the house of accused Chetan. Therefore, there appears no *prima-facie* case against the applicant. Charge-sheet is filed. Applicant does not have criminal antecedents. He has permanent residence at village Padhegaon. In this view of the matter, I am inclined to release the applicant on bail. Hence, the order;

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.25,000/- (Rs.Twenty Five Thousand only) with one solvent surety in the like amount, in connection with Crime No.0249 of 2021, registered with Kopargaon Rural Police Station, Dist.Ahmednagar, under Sections 302, 364, 201, 323, 34 of the Indian Penal Code, and on condition that he shall not tamper the prosecution evidence.
- iii) Bail Application is disposed of.
- iv) It is clarified that the observations made in the above order are restricted to the decision of this application 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

SPT