

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1517 OF 2021

Shivdas s/o Shrirang Raskar Applicant

Versus

The State of Maharashtra Respondent

Ms. S.S. Sabale, Advocate for the applicant.
Mr. G.O. Wattamwar, APP for respondent/State.

WITH
BAIL APPLICATION NO. 1516 OF 2021

Dattatraya Bhausaheb Latambale Applicant

Versus

The State of Maharashtra Respondent

Mr. S.E. Shekade, Advocate for the applicant.
Mr. G.O. Wattamwar, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 24th JANUARY, 2022.

PER COURT :

1. Heard.

2. Informant is the son of the deceased. It is alleged in the First Information Report that on 10th July, 2021, at 10.00 am, his

father Pandurang Pawar (since deceased) and Shankar Kashinath Jagate had gone to Parner for the work of Shankar Jagate. He came to know that at Parner, his father and Shankar Jagate met Dattatraya Bhausahab Latambale and Shivdas Shrirang Raskar i.e. the applicants.

3. On 11th July, 2021, at 5.00 am, he found that deceased had not returned home. He got a call from police station to come there. When he went to the police station, he came to know that a dead body was found at Irrigation colony, Shrigonda. He found that his father was dead and lying by the road side. He had injuries on his head and on his forehead. He expressed suspicion on applicants and Shankar Jagate. On these allegations, First Information Report came to be registered against these applicants.

4. The only evidence against the applicants is that of last seen theory. Learned counsel Smt. Sabale submits that the last seen theory will not come into play in the instant case as identification parade is not held.

5. From the statements of witnesses i.e. hotel owner Bapu

Wakhare and Akshay Bankar it reveals that deceased, Shankar Jagate and three accused were having dinner in the hotel of Bapu Wakhare. The time was 9.00 to 10.00 pm. Both of them left the hotel together. It further reveals from the statements of the witnesses that they did not know the names of any of these accused. Identification parade is not held. In the statement recorded under Section 161 of the Code of Criminal Procedure, they stated that they were shown applicants and they identified them to be the persons who were dining in the hotel at the relevant time. This identification is not an identification in law. Learned APP Shri Wattamwar submits that tower location report shows that all the accused and the applicants were together at the relevant time. However, that will only show that their tower location was the same. But that does not show that they were together at the time of dining. Thus, the evidence of tower location is also of no significance. In view of the fact that charge-sheet is filed, applicants have no criminal antecedents and they are not likely to flee from justice, I am inclined to release the applicants on bail. Hence the following order :-

ORDER

- i) Bail Applications No. 1516/2017 and 1517/2017 are allowed.

ii) Both the applicants be released on PR Bond of Rs.30,000/- (Rs. Thirty Thousand) with one solvent surety each in the like amount in connection with Crime No. 288/2021 registered with Belwandi Police Station, Tq. Shrigonda, Dist. Ahmednagar, for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and under Section 3 of Arms Act, on condition that they shall not tamper the prosecution evidence.

iii) Applications stand disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of these applications and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge