

(1)

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

BAIL APPLICATION NO.1905 OF 2022

**SURENDRASINGH GENDSINGH THAKUR
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Shailendra S. Gangakhedkar

APP for Respondent/State : Mr. A.A. Jagatkar

...

CORAM : S.G. MEHARE, J.

DATED : 21st DECEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.

2. The applicant has been arraigned as one of the co-accused. The prosecution has a case that the applicant and other co-accused took the deceased with them from his home. The grandmother lodged the report contending that after leaving home with the accused, the deceased made a phone call to her daughter; however, the grandmother took up that phone and the deceased told her that he has some dispute with the accused, so come for help. However, within few minutes, again he made a phone call and told her that they need not to come he would manage. Thereafter, the applicant did not returned and third day of the alleged incident, his dead body was found. The postmortem report shows that there were 38 injuries on the person of the deceased.

3. Learned counsel for the applicant would submit that the statements of witnesses on last seen together are at variance. The father stated that he did not see the deceased going with the accused. The statement of two independent witnesses Kapil Khade and Vijay Jondhle does not state the name of the applicant though they saw some boys going on bike. There is no concrete evidence against the applicant except the recovery of the wooden stick. The wooden stick was not smeared with blood. The CA report also does not support the prosecution except the opinion of possibility of causing death due to such weapon. The investigation has been completed. The applicant has been falsely implicated in the crime as he is the friend of Yogendra who had quarrel with the deceased. Hence, he may be granted bail.

4. Learned APP has strongly opposed the application. He would rely on the statements of Kapil and Vijay. Their statements reveal that they saw the boys going on vehicle, but they could not identify that the applicant was going on the said bike. Learned APP would further argue that recovery of the weapon completes the chain of circumstances against the applicant. The offence is serious. The deceased was killed a day before his marriage.

5. Perused the papers. There appears discrepancy in the statements of the witnesses as regards last seen together. The

witnesses Kapil and Vijay heavily relied upon by both the sides did not state the name of the applicant. They saw some boys on the motorbike but they could not see their faces. The weapon recovered at the instance of the applicant was not smeared with blood. The applicant is a young boy having no antecedents to his discredit. Considering the age of the applicant and the completion of investigation along with material against him, the Court is of the view that the application deserves to be allowed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Surendrasingh Gendsingh Thakur, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.175 of 2022, registered at Nanded (Rural) Police Station, District Nanded for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and 4/27 of Indian Arms Act, on the condition that he shall tamper with the prosecution evidence.

(S.G. MEHARE, J.)