

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

22 BAIL APPLICATION NO.1649 OF 2021

Sachin s/o Kashinath Ghume
Age: 24 years, Occu.: Driver,
R/o. Patalganga, Tq.Kandhar,
Dist.Nanded.

..Applicant
(Orig. accused)

VERSUS

The State of Maharashtra,
Through the Police Officer,
Chakru Police Station,
Tq.Chakur, Dist.Latur.

..Respondent

...
Advocate for Applicant : Shri P. P. More
APP for Respondent : Shri A.V.Deshmukh

...
CORAM : M.G.SEWLIKAR, J.

DATE: 14th February, 2022

PER COURT :-

1. By this application, the applicant is seeking his enlargement on bail in connection with Crime No.0225 of 2021, registered with Chakur Police Station, Dist.Latur, under Sections 302, 324, 323, 504 read with Section 34 of the Indian Penal Code.

2. Facts in brief are that Dnyaneshwar Deokate (since deceased) was the elder brother of the informant. Accused/applicant was a Driver on the Truck. Accused Alankar Kegar was working on said Truck as a Cleaner.

3. On 22nd May, 2021, deceased Dnyaneshwar and accused Alankar were together. On the same day at 08:00 p.m., Deceased Dnyaneshwar had said that he would be going with accused Alankar in his Truck. Accordingly, deceased Dnyaneshwar and accused Alankar left together.

4. On 25th May, 2021 at 09:30 p.m., one Chaitanya Balaji Deokate, the cousin of the informant, told the informant that accused Alankar would be bringing deceased Dnyaneshwar in the Truck and to receive him, informant should come to Algarwadi Pati. Accordingly, informant Kerba Keshav Kodgir, Santosh Suryabhan Khatake, brother of the informant by the name of Chaitanya went to Algarwadi Pati at 10:30 p.m. The Truck of Alankar came there. Alankar dropped deceased Dnyaneshwar. The informant noticed that all the limbs of Dnyaneshwar were tied with a rope. On asking accused Alankar as to what had happened to deceased Dnyaneshwar, Alankar did not say anything and went away with the Truck. At that time, deceased Dnyaneshwar had three injuries on his head on which lime was applied. He had injuries on his nose, on the back of neck and he had injuries all over the body.

5. Thereafter, at 11:00 p.m. deceased was shifted to the Hospital in the Auto of Govind Balaji Waghmode. Deceased

Dnyaneshwar was shifted to Hospital of Dr.Hasnale. Dr.Hasnale refused to admit deceased Dnyaneshwar as it was Covid Hospital. Deceased Dnyaneshwar was taken to Hospital of Dr.Nagime at Chakur. On examination, the staff in Nagime Hospital advised that the deceased be taken to the Government Hospital at Chakur. When deceased was taken to the Government Hospital at Chakur, he was declared dead on arrival. Therefore, FIR came to be lodged against the applicant under the aforesaid Sections.

6. Heard Shri P.P.More, learned counsel for the applicant and Shri A.V.Deshmukh, learned APP for the respondent-State.

7. Shri More, learned counsel for the applicant submits that the applicant is a Driver of the Truck. He had no animosity against the deceased. He submits that accused Alankar had motive against the deceased. Applicant had no motive. He submits that there is evidence to show that deceased had tried to run away from the Truck saying that he was being assaulted by 20 to 25 villagers. He submits that there is evidence to show that the deceased was beaten by some persons on 24th May 2021. According to him, Alankar had called the mother of the deceased by the name of Dhondubai and told her that the deceased was behaving in a strange manner. Mother of the

deceased told Alankar that deceased Dnyaneshwar should be left there only. He submits that marriage of the applicant's sister is scheduled on 21st February, 2022.

8. Shri More, learned counsel for the applicant submits that witness Nitin Kadam states that on 24th May 2021 at 08:30 p.m., villagers started shouting that thief had come. They saw that one person was sitting in the Truck. The person, who was sitting in the Truck was not beaten by anyone. The Truck Driver was the applicant and Cleaner was Alankar. He submits that there is no evidence to show that the deceased was beaten by the applicant and accused Alankar.

9. Learned APP for the respondent-State submits that there is evidence to show that the deceased was beaten by these two persons. He submits that the deceased had gone to the Police Station complaining that some persons were following him to beat him. When the Police Officers searched for those persons, they did not find anyone. He submits that there are statements of witnesses who saw that the deceased was beaten by applicant Alankar.

10. It is pertinent to note that cause of death is strangulation. When the deceased was dropped by accused Alankar in the Truck

at Alagarwadi Patil, his all limbs were tied. The statement of witness Shivaji Bharat Landge shows that applicant and accused Alankar were tying the limbs of deceased Dnyaneshwar by a rope. He objected to it. He saw both of them were beating the deceased Dnyaneshwar with kicks and fist blows on his back, abdomen and on neck. Similar is the statement of witness Amol Hanmant Dharme. The evidence on record clearly shows that since 22nd May 2021 till the deceased was dropped on 25th May 2021 deceased was in the company of the accused Alankar. Statements of witnesses show that both the accused were beating deceased Dnyaneshwar. This clearly shows that there is *prima-facie* evidence against the applicant. I am, therefore, not inclined to release the applicant on bail. Hence, the order :

ORDER

- i) Bail Application is dismissed.
- ii) 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**