

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1159 OF 2022

Tejas Nandkumar Awale ...Applicant
Versus
State Of Maharashtra ...Respondent

**WITH
INTERIM APPLICATION NO. 3522 OF 2022
IN
CRIMINAL BAIL APPLICATION NO. 1159 OF 2022**

Miss. Dipali Rajendra Shivdas ...Applicant

IN THE MATTER BETWEEN :

Tejas Nandkumar Awale ...Applicant
Versus
State Of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 748 OF 2022**

Sangram Babu Ranpise ...Applicant
Versus
State Of Maharashtra ...Respondent

**WITH
INTERIM APPLICATION NO. 3523 OF 2022
IN
CRIMINAL BAIL APPLICATION NO. 748 OF 2022**

Miss. Dipali Rajendra Shivdas ...Applicant

IN THE MATTER BETWEEN :

Sangram Babu Ranpise ...Applicant
Versus
State Of Maharashtra ...Respondent

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Mr. Meghdeep Oak a/w Mr. D. Bose, Advocate for the Applicant in
both Bail Applications.

Mr. Shailesh Chavan, Advocate for the Applicant in both Interim

Applications.

Mr. A. A. Palkar, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
RESERVED ON : 17th OCTOBER, 2022
PRONOUNCED ON : 23rd DECEMBER, 2022

PC:

1. The applicants are arrested on 6th April, 2021 in C. R. No.286 of 2021 registered with Satara City Police Station, for offences punishable under Section 302, 201 read with 34 of the Indian Penal Code, 1860.

2. The prosecution case is as under:-

i. The first informant is the mother of deceased. On 5th April, 2021, the first informants son Akash did not return home. At about 10.00 p.m. she gave phone call to him. He told her that he would return in five minutes. The first informant again gave call to Akash at about 10.30 p.m. The phone was picked up by one Sangram Ranpise and he told her that, he would leave Akash in five minutes. At about 11.45 p.m. first informants daughter Deepali gave a call to Akash and he told her that he would return within five minutes and switched off the phone. Akash did not return home. On the next day morning attempts were made to call him but his phone was found switched off. The first informant and her husband went to their shop at Shahu Market. They heard the conversation that half

burnt body of some person is found behind the Shahu Market. They could not trace Akash. Subsequently they came to know that motorcycle of Akash is lying at Shahu Market. During search they found half burnt body of Akash. They also noticed blood stained cement stone at the place where the body was found. The articles found at the place of incident were belonging to Akash. First Information Report was registered on 6th April, 2021. Investigation proceeded. Accused were arrested. Charge-sheet was filed.

3. The applicant in Bail Application No.1159 of 2022 (Tejas Awale) preferred an application for bail before the Court of Sessions. The application was rejected by order dated 7th March, 2022.

4. The applicant in Bail Application No.748 of 2022 (Sangram Ranpise) preferred an application for bail before the Court of Sessions and the said application was rejected vide order dated 29th October, 2021.

5. The grounds for bail urged on behalf of the applicant in Bail Application No.1159 of 2022 are as follows:-

- i. There is no evidence to show involvement of applicant in the crime. The applicant has been arrested on suspicion.
- ii. The only circumstance alleged against the applicant is about the tower location of the applicant near the spot of the incident.

This cannot be considered as strong circumstance against the applicant since the applicant stays in the vicinity of the alleged tower location.

iii. At the most role attributed to the applicant is of destroying the evidence and commission of the offence under Section 201 of Indian Penal Code.

iv. The applicant had no motive to participate in the crime.

v. The prosecution is relying upon the statement of Jaya Shivgan who has stated that, the applicant was last seen alongwith the other accused victim at about 11.45 p.m. The applicant was not seen with the deceased, at the latter point of time. There is no evidence to show that, the applicant was in the company of the deceased, at the spot of crime. There is no evidence in the form of CCTV or CDR and statements of witnesses to show that, the applicant was present at the spot of incident.

vi. The co-accused Chetan Nandkumar Awale who was arrested on the basis of CDR has been granted bail by this Court by order dated 21st September, 2021.

vii. There is no eye witness to the incident. On the basis of CCTV footage it is alleged that, the applicant was last seen with the deceased on 6th April, 2021 near wellness medical store.

viii. The prosecution is relying on the CDR of the applicant. The

applicant resides in the same locality where the alleged incident had occurred.

ix. This Court had granted bail to Umesh kamble vide order dated 20th January, 2022.

6. The grounds for bail submitted on behalf of the applicant in Bail Application No.748 of 2022 (Sangram Ranpise) are as follows:-

a. No case is made out against the applicant. He is arrested on suspicion. There is no eye witnesses to the incident.

b. The prosecution is relying on the evidence of last seen together. The applicant was allegedly last seen with deceased Akash near wellness medical, Satara at about 11.30 p.m. to 12.00 pm. At that point of time victim Akash spoke to his sister Deepali. Statement of Deepali was recorded after 10 days from the date of incident.

c. The applicant had no motive to commit the crime. The CDR relied upon by the prosecution to show tower location of the applicant cannot be considered adverse against applicant. The applicant resides in the same area.

d. Vishal Kuchekar has stated that, he was approached by accused No.1 at about 1.20 a.m. on 6th April, 2021. This would indicate that, the applicant was not present at the place of incident.

There is no evidence in the nature of CCTV and CDR or statements of witnesses to show that, the applicant was present at the spot of crime.

e. The co-accused Chetan Awale and Umesh kamble were granted bail by this Court.

7. Learned APP and learned learned Advocate for intervenor submitted that there are strong circumstances against the applicants. Both the applicants were in company of the deceased on the day of incident and all of them were last seen together. The CCTV footage near the wellness medical center, shows the presence of the applicants with the deceased. The tower location derived on the basis of CDR shows that, the applicants were in the vicinity of the crime. The evidence of last seen together is reflected in the statement of Jaya Shivgan. When the first informant made a call to Akash, it was picked up by applicant Sangram Ranpise which indicates that he was with the deceased. Non-cognizable complaint was filed against applicant Tejas Awale in the year 2020. The role of the co-accused who were granted bail can be distinguished. The victim was killed by using concrete stone. The accused tried to destroy the evidence by burning the body. The accused Tejas Awale is the friend of accused No.1. Prior to incident there was quarrel between deceased and applicant Tejas Awale. The said accused had

shown the spot under memorandum panchanama. There were blood stains on the cloths of the accused. On 2nd March, 2020 the applicant Tejas Awale and accused No.1 had assaulted deceased and threatened him. Non-cognizable complaint bearing No.590 of 2020 was registered against them with Satara City Police Station. It is submitted that, there is sufficient evidence against the accused Sangram Ranpise. The accused Sangram is relative of accused No.1. The accused No.1 and Sangram Ranpise were seen in the CCTV footage of wellness medical store, at Satara. The accused No.1 and Sangram Ranpise purchased liquor alongwith deceased. Sangram Ranpise was in the company of deceased. He picked up the call of deceased. There is evidence of last seen with the deceased against the said applicant. The accused who are granted bail are not complying the conditions. NC complaint was lodged against one of them.

8. There is no eye witness to the incident. The case is based on circumstantial evidence. The first informant is the mother of deceased. The alleged incident had occurred between the night of 5th April, 2021 and 6th April, 2021. As per the version of first informant, her son Akash did not return home. She gave call to him at 10.00 p.m. and 10.30 p.m.. The second phone call was answered by accused Sangram Ranpise and he told the first informant that

Akash would be released within five minutes. Akash told her that he would return in five minutes. Thereafter at about 11.45 p.m. sister of Akash spoke to him and Akash had informed her that he would come home within five minutes. His body was found on the next date. Spot panchanama was recorded. Concrete stone was found at the spot having blood stains on it. Postmortem was conducted. The body of the victim was burnt. During the course of investigation statement of Smt. Bhavna Garole was recorded. She has stated that she was acquainted with deceased Akash Shivdas. He was harassing her. She got married to Suraj Garole. Akash tried to contact and talk to her. Brother of Bhavna Garole (Vikrant) was aware about the harassment caused by Akash and there used to be quarrels between her brother and Akash. On 6th April, 2021 her brother Vikrant took vehicle of her husband and while leaving he told her that, she would not be troubled by anyone in future. Vikrant was angry with Akash. Statement of Suraj Garole was recorded on 7th April, 2021. He stated that Akash was troubling his wife Bhavna. His brother-in-law Vikrant kamble came to know about the harassment caused by Akash to Bhavana. Statement of Jaya Shivgan was recorded on 14th April, 2021. She has stated that on 5th April, 2021 at about 11.45 p.m. she saw Vikrant kamble, Sangram Ranpise, Tejas Awale and Akash Shivdas together.

Statement of Deepali Rajendra Shivdas was recorded on 15th April, 2021. She is the sister of deceased. She referred to relationship between Akash and Bhavna. She also stated that Vikrant kamble was angry with Akash due to his conduct towards his sister Bhavana. Vikrant Kamble had threatened Akash. He had lodged N.C. complaint No.590 of 2020 against Vikrant. On 5th April, 2021 at about 10.30 p.m. she gave call to Akash. Sangram Ranpise answered the call and told her that Akash is with him and he would drop him home. Her father spoke to Akash. He told him that he would return in five minutes. On 6th April, 2021 at about 00.41 she received call from mobile phone of Akash. Some other person was on phone. She enquired about Akash. She spoke to Akash. He told her that he is with Sangram Ranpise and Manya Kamble. He would return in 10 minutes. Sangram Ranpise told her that he would drop Akash at home. Statement of Ajay Ghadge mentions that on 5th April, 2021 after 11.30 p.m. he saw Vikrant Kamble, Akash and Sangram Ranpise together. They were in drunken condition. Sangram Ranpise demanded two bottles of liquor. He purchased two bottles of liquor. They left together. Statement of Vishal Arun Kuchekar was recorded on 20th April, 2021. He stated that on 6th April, 2021 at about 1.20 a.m. while he was answering nature's call Vikrant Kamble approached him and demanded phone. Vikrant

gave call to some person and told him to come near Satara Chicken Centre.

9. Statement of Swapnil Ghusale was recorded on 22nd April, 2021 he has stated that on 5th April, 2022 at about 11.40 p.m. he met Sangram Ranpise, Akash @ Roger Shivdas and Vikrant Kamble were sitting on motorcycle. All of them left together towards hotel Bharat Bhuvan.

10. This Court vide Order dated 21st September, 2021 granted bail to Chetan Nandakumar Awale while granting bail to him it was observed that, there is no evidence of last seen or recovery against him. Merely because the tower location of said accused was in the village would not be sufficient to show the complicity of the accused, as he is the resident of the said village. Phone call made by the said applicant to accused No.4 cannot be said to be incriminating. There is no evidence that he has disposed of the dead body of Akash. As per statement of Shaikh there was altercation between the said applicant and Akash on the date of incident but after the quarrel the accused left the spot. Akash spoke to his sister after 10 p.m. There is no material on record or evidence to show that, the said applicant and the victim were together. Umesh Kamble was granted bail by this Court vide order dated 20th January, 2022. While granting bail it was observed that,

the prosecution is relying upon the evidence of CDR against the said applicant. There was no evidence to show that he was involved in disposing the dead body of Akash. Evidence of tower location is not incriminating.

11. The evidence relating to CDR / tower location has been considered by the co-ordinate bench while granting bail to the co-accused. The applicants are also residents of the same place and thus, the tower location cannot be considered as incriminating circumstance against the applicants. Place of incident was known to the investigating agency as the dead body was found at the place of incident and hence the alleged statement by the applicant Tejas Awale showing place of incident has no significance. The prosecution is then relying upon the theory of last seen together. As far as applicant Sangram Ranpise is concerned statements of Ajay Ghadge, Deepali Shivdas, Jaya Shivgan and Swapnil Ghusale are incriminating. Their statements show his presence with Akash Shivdas. Considering the nature of evidence against him, he is not entitled for bail. However there are no strong circumstances against Tejas Awale. He can be granted bail.

ORDER

- i. Criminal Bail Application No.1159 of 2022 is allowed and disposed off.

- ii. Criminal Bail Application No.748 of 2022 is rejected and disposed off.
- iii. The applicant Tejas Nandkumar Awale is directed to be released on bail, on executing P. R. bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- iv. The applicant Tejas Nandkumar Awale shall attend the concerned Police Station on the first Saturday of every month between 10.00 a.m. to 11.00 a.m. till the conclusion of the trial;
- v. The applicant Tejas Nandkumar Awale shall not enter the jurisdiction of Satara City Police Station, Satara, until further orders, except for the purpose of attending the Police Station as mentioned in Clause (iii);
- vi. The applicant Tejas Nandkumar Awale shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- vii. The applicant Tejas Awale to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- viii. The applicant Tejas Nandkumar Awale shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

ix. The applicant Tejas Nandkumar Awale shall file an undertaking with regard to clauses (iii) to (vii) in the trial Court, within two weeks of his release;

x. If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

12. All Interim Applications are disposed off.

13. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

14. All concerned to act on the authenticated copy of this order.

(PRAKASH D. NAIK, J.)