

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION No. 1265 OF 2021**VAISHALI
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+0530**Gopinath Bhimaji Ahire****...Applicant****Vs.****The State of Maharashtra****...Respondent**

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Mr. Bhushan V. Deshmukh for Applicant
Mr. N.B. Patil, APP for State/ Respondent**Coram : Sandeep K. Shinde, J.****Dated: 7th JUNE, 2022.****P.C. :**

1. Heard Mr. Deshmukh, learned counsel appearing for the Applicant and Mr. Patil, learned APP for the State.
2. This application seeks enlargement of the Applicant in connection with Crime No. 152/2020 registered with Yeola Police Station for the offence punishable under Section 302 of the Indian Penal Code, 1860 (IPC for short).
3. The facts of the case are unfortunate and disturbing. In the sense, prosecution case is that Applicant caused death of his son, by strangulating him, when he was fast asleep. Apparent reason as alleged was that son was addictive to liquor, which made the life of all family members sorrowful. In the consequence, except father, other

family members had left the deceased, alone in the house. On the fateful night of 29th May, 2020, deceased son abused his father under the influence of liquor. It is alleged that father was sick and tired with his addiction. Thus, he allegedly strangled him when he was fast asleep. Next day morning, he informed the incident to village officer. Thereafter, the crime in question was registered against him. The Applicant was arrested. The investigation in the case is over and the charge-sheet has been filed.

4. Learned counsel for the applicant submits that, the Applicant has been falsely implicated in the case inasmuch as, there is no evidence on record to suggest that on the fateful night, the Applicant was in the company of his son. Learned counsel would argue that the dead body was found on veranda of his house, which was open on the northern side. Thus, relying on spot panchanama and the sketch, learned counsel would argue that possibility of causing death of applicant's son by stranger cannot be ruled out. It is argued except, extra-judicial confession, no other dependable evidence has been brought on record, to show applicant's complicity in the crime. Learned counsel for the Applicant would submit that Applicant is 54 year old, person with no criminal antecedents. It is submitted that he is in custody since 1st June, 2020. He is a permanent resident of

Village Kusumadi, Taluka Yeola, Dist. Nashik. By imposing the suitable conditions, his presence of the trial can be secured. On these grounds, applicant's enlargement on bail is sought.

5. Learned APP opposed the application, contending that the evidence on record, prima facie suggests that applicant was in company of the deceased on the fateful night. It is further submitted that the Applicant himself reported to the police patil that he had strangled, his on out of frustration. Learned APP further submitted that it is not a fit case to grant bail, reason being, the offence is punishable with life imprisonment or death.

6. Having considering rival submissions, in my view, a spot panchnama and the sketch on record, suggest that since dead body was found on the veranda, which was accessible from northern side, possibility of strangers complicity in the crime cannot be fully ruled out. Besides, except the extra judicial confession, there is no evidence to connect the applicant to the incident of strangulation. Having regard to the facts of the case, and also for the reason that the trial may not commence in near future, I am inclined to release the applicant on bail. Hence the following order.

Order

(i) The applicant in Crime No. 152/2020 registered with Yeola

Police Station , shall be released on executing PR bond for the sum of Rs.25,000/- with one or more sureties in like sum.

(ii) The applicant shall report the concerned police station once in a month i.e. on second Monday of each month between 11.00 a.m. to 1.00 p.m. commencing from June, 2022 till the charge is framed.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer within seven days from the date of his release on bail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is accordingly allowed and disposed of.

8. It is made clear that observations made hereinabove be construed as expression of opinion for the purpose of bail only and the same shall not in any way influence the trial in other proceedings.

(Sandeep K. Shinde, J.)