

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

**INTERIM APPLICATION NO. 2537 OF 2021
IN
CRIMINAL APPEAL NO. 864 OF 2021**

Anna Alias Suresh Manjunath Shetty	..Applicant
Versus	
The State of Maharashtra	..Respondent

Dr. Uday P. Warunjikar, Advocate (appointed) for Applicant.
Mr. S. S. Hulke, APP for State/Respondent.

**CORAM : S. S. SHINDE AND
SARANG V. KOTWAL, JJ.
DATE : 5th MAY 2022.**

PC :

1. This is an application for bail pending the hearing and final disposal of Appeal. The prosecution case is that, on 02/11/2016 the present applicant and other accused namely Raju Choudhary and Sonya @ Deepak Kadu forcibly took away the deceased Vishwanath Yadav from his house on a two wheeler at about 7.00p.m. Thereafter he was found in an injured condition at around 11.50p.m. behind Shreejie Powder Coating company, near Savitri Garden, Dhairy, Pune. He succumbed to his injuries.

Therefore, F.I.R. was lodged vide C.R.No.423 of 2016 at Sinhgad

road police station, initially under section 364 and other sections. Thereafter Section 302 of IPC was added.

2. Heard Dr. Uday Warunjikar, learned counsel for the Applicant and Shri. Hulke, learned APP for the State.

3. During trial various witnesses were examined. The main witnesses were the widow and son of the deceased who had seen the applicant and other accused taking away the deceased from his house. Learned counsel for the applicant submitted that, there are circumstances against the applicant as follows: i) last seen together, ii) finger prints on the glass bottle found near the spot and; iii) recovery of blood stained clothes.

4. He submitted that, all these circumstances either singularly or even together do not complete the chain of circumstances warranting the order of conviction.

5. Learned APP opposed this application. She submitted that all the circumstances are sufficient to base the conviction.

6. We have considered these submissions. With the assistance of both the learned counsel we have perused the

evidence and in particular we have read the statements of wife and son of the deceased. PW-11 Sarojana Yadav is wife of the deceased. She has stated that, on that particular day at about 7.00p.m. all the accused including the present applicant came to their house. They threatened the deceased and started beating him. This witness tried to intervene, but she was pushed away. Thereafter the accused forcibly took away the deceased on their vehicle. This witness and PW-12 i.e. her son went to the police chowky and lodged the report about this incident. After some time, the deceased was found behind a company premises. Her evidence is sufficiently corroborated by her son PW-12 Subhash Yadav; who has deposed in a similar manner.

7. Apart from that, PW-13 Ratnakant Raikar was also present in the vicinity from where the victim was abducted and he had seen the incident. Therefore, there is strong evidence to show that the accused including the present applicant had taken away the victim forcibly after threatening him and at that time he was assaulted. The Postmortem notes show that the deceased had suffered more than 40 injuries and the cause of death was

mentioned as “death due to multiple injuries”. To support the theory of ‘last seen together’, the injured was found within a reasonable time at 11.50p.m. These two incidents have strong connection. Apart from that, finger print of the applicant was found on the glass near the spot. Blood stained clothes were recovered at his instance. All these circumstances are strong enough. Therefore, no case for bail is made out.

8. The Application is rejected.

9. However, since the Applicant is in custody since 04/11/2016, the Criminal Appeal No. 864 of 2021 shall be listed on weekly final hearing board commencing from 27/06/2022.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)