

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.615 OF 2023

Suraj Laxman More,
Age 24 years, Occu. Labourer,
R/o. Bamburdi (Ghumat),
Near bus stand,
Taluka and District Ahmednagar .. Applicant

Versus

The State of Maharashtra
Through Police Station Officer,
Ahmednagar Taluka Police Station,
Ahmednagar .. Respondent

Ms. Pradnya Talekar, Advocate for and on behalf of Talekar and Associates;
Mr. S. P. Deshmukh, Advocate for Respondent

CORAM : S. G. MEHARE, J.

DATE : 28-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The applicant is seeking bail in C.R.No.479 of 2022 registered with Ahmednagar Taluka Police Station, Ahmednagar, for the offences punishable under Sections 302 and 120B of the Indian Penal Code.

3. The prosecution case rests upon the circumstantial evidence. The allegations have been levelled against the applicant that the deceased had love affair with the wife of the present applicant before her marriage. Hence, he alongwith co-accused took the deceased with them and strangled him.

4. The learned counsel for the applicant has vehemently argued that the chain of circumstances is incomplete. The corroborative evidence to prove the strangulation is also not sufficient. Chemical analysis report is not produced to believe that it was the same rope allegedly purchased by the applicant from a shop and used for strangulating the deceased. The finger print report is also not available. Though the CCTV footage from the Hardware shop is collected and transcribed, nobody says that the person captured in the CCTV footage was the applicant. Test identification parade has not been conducted. The circumstantial evidence is insufficient to believe that it was the applicant who strangled the deceased. However, co-accused Hanumanta Gaikwad has deliberately made a wrong statement against the applicant. His statement has no evidential value. There is no material about love affair of the deceased with the wife of the accused and it has been left untouched by the prosecution. There was no motive. The applicant is young boy and has no antecedents. He is behind bar since ten months. She relied on the order of this Court passed in Bail Application No.446 of 2023

(Satika Vijay Patni @ Satika Kishor Sonar Versus The State of Maharashtra) dated 10.04.2023.

5. The learned A.P.P. would argue that there is sufficient evidence that the deceased was lastly seen in the company of the applicant. If there was no reason that the applicant had no cause to kill the deceased, the cloths wore by the applicant as noticed in CCTV footage were recovered at his instance. Though the names were not coming forward after examining CCTV footage, one witness Shivaji Bhima Pawar has specifically stated that on 11.07.2022 and 12.07.2022 he saw the deceased in the company of the accused and thereafter the deceased disappeared. Whether the same rope was used for strangulating the deceased by the accused, is a matter of evidence on merit. *Prima facie* sufficient material is available against the applicant. The offence is serious. Hence, the applicant does not deserve bail.

6. Perused the chargesheet.

7. The prosecution has evidence of one hotel owner and waiter as well as CCTV footage. It is true that nobody says that the person captured in CCCTV footage is the applicant, but the statement of the owner of the hardware store, specifically speaks that rope was purchased from his shop. That time three persons came to his shop. Similar colour shirt which was noticed in CCTV footage has been recovered at the instance of the applicant. The

waiter who served the deceased and the accused also deposed that three persons had been to hotel. The statement of Shivaji Bhima Pawar is specific that he saw the accused and deceased on 11.07.2022 and 12.07.2022 together as they were asking to meet one Subhash Dilwale and the accused told him their names. Reading the material as a whole, it cannot be said that *prima facie* the prosecution case is doubtful and chain of circumstances is incomplete. The offence is serious. Hence, he does not deserve bail. In view of the above observations, the application stands dismissed.

**(S. G. MEHARE)
JUDGE**

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