

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1308 OF 2023

YOGESH DIPAK BHARSHANKAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. N. C. Garud
APP for Respondent : Mr. S. P. Deshmukh
...

CORAM : S. G. MEHARE, J.

DATE : 09-08-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant seeks bail in C.R.No. I-172 of 2023 registered with Sonai Police Station, Taluka Newasa, District Ahmednagar, for the offence under Section 302 of the Indian Penal Code.
3. Its a case of last seen together. The prosecution has evidence that the applicant and the deceased were last seen together. The stick has been recovered from the applicant under Section 27 of the Evidence Act.
4. The learned counsel for the applicant would submit that the learned Additional Sessions Judge, Newasa, has granted bail to the co-accused Trimbakeshwar. Reading a statement of one Ashabai,

who has seen the applicant and the deceased together, he tried to interpret that she had also seen the co-accused Trimbakeshwar and Yogesh together. However, the learned A.P.P. has correctly pointed out that she did not mention about Trimbakeshwar lastly seen together. However, her statement reveals that she learnt then that present applicant and the co-accused took the deceased on motorbike and committed the offence. Hence, Trimbakeshwar was granted bail.

5. The learned counsel for the applicant again argued that the stick and motorbike were recovered from Trimbakeshwar and he has been granted bail. This way or the other, the learned counsel has tried to argue before the Court that the roles attributed to Trimbakeshwar and present applicant are similar. Hence, he may be granted bail.

6. The Court has gone through the papers and find no evidence with the chargesheet that there were the witnesses stating that they saw co-accused Trimbakeshwar lastly with the deceased. The applicant attributes different role from the role attributed to co-accused Trimbakeshwar. Hence, the Court expressed disinclination to grant bail. Soon after the Court expressed disinclination to grant the bail, the learned counsel for the applicant took U-turn. He started arguing that the order granting bail to co-accused Trimbakeshwar by the learned Additional Sessions Judge was not

before the said Court refusing him bail. Hence, opportunity may be granted to approach the Sessions Court and claim the bail on parity, this request is impermissible in the eye of law. The Court, after examining the papers, satisfied that there was evidence against the applicant that he was last seen together with the deceased and also considered the plea of parity. Hence, his request to take a chance before the learned Additional Sessions Judge has been declined.

7. The offence is serious. *Prima facie* evidence is available against the applicant/accused. Hence, he does not deserve bail. The application stands dismissed.

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

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