

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1524 OF 2023**

SURYAKANT VISHNU BHAGAT
VERSUS
THE STATE OF MAHARASHTRA

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Mr. A. S. More, Advocate for the Applicant.

Mr. S. P. Deshmukh, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 06th SEPTEMBER, 2023.**

PER COURT:-

1. By this application, the applicant seeks regular bail in connection with Crime No.8/2023 registered with Tuljapur Police Station, Dist. Osmanabad for the offence punishable under Sections 302, 201 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Sidhu Pawar. He alleges that his sister was missing since 03.01.2023. On 05.01.2023 he received call from one Nagnath Sagat that his sister Avida found dead in the field of one Pandu Tailor. On visit to the said place his sister found in dead condition without clothes on her body. There were marks of injuries on her person, so also there were marks of throttling. The investigation was progressed. The applicant has been arrested on 14.01.2023. After completion of investigation, charge-sheet is filed against applicant for the offence punishable under Sections 302, 201 of the Indian Penal Code.

3. Mr. More, learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated. He has no motive to commit murder of the deceased.

He would submit that perusal of the charge-sheet would show that there are no incriminating circumstances that would lead to the conclusion that the applicant is author of the murder of the deceased. By inviting attention of this Court to the statements of the eye witnesses he would submit that the applicant is alleged to have seen in the company of the deceased in the evening of 03.01.2023. Her dead body was found on 05.01.2023. The postmortem report did not indicate the probable time of cause of death. Therefore, even it is assumed that the applicant was seen in the company of the deceased that itself would not be significant circumstance. He would further submit that the alleged discovery of the clothes of the deceased under Section 27 of the Evidence Act is not believable, since there are material contradiction in the memorandum itself.

4. The learned APP vehemently opposes the prayer for bail. He would submit that there are three witnesses, who have seen the applicant alongwith deceased in the evening of 03.01.2023. The applicant carried her on his motorcycle. Since then, the deceased was missing. He would submit that the evidence regarding the last seen coupled with the discovery under Section 27 of the Evidence Act is sufficient to establish guilt against the applicant. He would further point out that the applicant is habitual offender. Two crimes have been registered against him in the year 2018 and both the matters are subjudice.

5. Having considered the submissions advanced, apparently the FIR was lodged against the unknown persons after noticing dead body of the deceased in the field. During the course of investigation, the statements of witnesses were recorded, which indicate that the applicant was seen in the company of the

deceased in the evening of 03.01.2023 at about 08.00 pm. The applicant was arrested on 14.01.2023. There is alleged discovery of the clothes of the deceased at the instance of the applicant from well. As pointed out by the learned Advocate appearing for the applicant, the postmortem report do not indicate exact time of death. The dead body of the deceased was found on 05.01.2023 i.e. after about 48 hours. The recovery of the clothes is shown from the open well where articles were visible and those were removed from the well using sticks. Whether such discovery would fall within the ambit and scope of Section 27 of the Evidence Act would be the matter of trial. Even assuming that that the applicant was seen in the company of the deceased on 03.01.2023, it is difficult to make out case against the him. The CDR location of the applicant alleged to have been found in the vicinity of the place where dead body of the deceased was found. However, the applicant is resident of the same village, the CDR location at the same place may not be of any consequence. In that view of the matter, case is made out for grant of bail subject to certain condition. It is made clear that, observations made hereinabove are for *prima facie* consideration and only for disposal of this application. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Suryakant Vishnu Bhagat be released on bail in Crime No.8/2023 registered with Tuljapur Police Station, Dist. Osmanabad for the offences punishable under Section 302, 201 of the Indian Penal Code on executing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:

- a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend the proceedings before the Sessions Court on each and every effective date.
 - c. The applicant shall not establish contact with the witnesses named in the charge-sheet.
- (iii) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE