

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

21 BAIL APPLICATION NO.2023 OF 2022

SOPAN SOMNATH MORE
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent-State : Mr. S. P. Sonpawale.

CORAM : S. G. MEHARE, J.
DATE : 02.01.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the State at length.
2. The present case has its checkered history of illicit relations of the wife of the deceased with the present applicant and other co-accused. The deceased was the maternal uncle of the applicant. The deceased was physically challenged. There were family disputes over the share of the property. The deceased and his wife were residing at Aurangabad, Waluj, with the present applicant. However, after some days, when the deceased learnt about the illicit relationship of the applicant with the wife of the deceased, they went to reside at village Babhulgaon. The prosecution has a case that the

deceased left his home on 30.09.2021. Since then, he did not return. Therefore, a missing report was lodged on 14.10.2021. Thereafter, on 11.05.2022, the half lower part of the dead body of the deceased was found on the parapet, and the remaining upper body bones were in the Well. When the owner of the field found the body floating in the Well, he gave intimation to the police. Police reached the spot of the incident. The prosecution case rests upon the last seen together theory. The prosecution has a sole witness who was working under the deceased. Apart from that, the prosecution also relies on the DNA test report to show that the dead body was of the deceased. The prosecution also relies on the statement of the wife of the deceased, who has allegedly disclosed certain facts. She alleged against the applicant that the entire village knew about her illicit relationship with the applicant. Her husband also knew about their relationship. Hence, would not let him get married. Therefore, the applicant had a grievance against the deceased. On these allegations, the crime has been registered.

3. Learned counsel for the applicant would submit that the statement of the witness allegedly seeing the deceased last together with the applicant is an afterthought. He exaggerated

the statement that after calling the deceased 'Mama', the deceased told him the name of the applicant. He also argued that there was a family dispute over the share of the field. The mother of the applicant was also claiming a share in the field. Therefore, they had strained relations. The wife of the deceased was not satisfied with the deceased, as he was physically challenged. She was knowingly keeping relations with other persons. There is an inordinate delay in lodging the missing report. Except for the conversation between co-accused Ganesh and the applicant on the telephone, the prosecution has no other evidence. He would vehemently argue that the so-called evidence collected against the applicant is weak and would not stand on its merit. The applicant has been arrested only on suspicion. He had no role to play in the alleged incident. He is 23 years old and has no antecedents to his discredit. The investigation has been completed. Hence, he may be granted bail.

4. Learned APP has strongly opposed the application. He would refer to the statement of the last seen together witness, the statement of the wife of the deceased, and the brother of the deceased. Referring to the statements, he would submit that there is strong evidence against the applicant that the

deceased was last seen in the applicant's company. He also argued that the recovery of the weapon used to cut the body in two pieces at the instance of the applicant is also material to complete the chain of circumstances. He also referred to the other papers showing that some dispute was there in the family over the partition. Hence, it may be inferred that the applicant has a grievance against the deceased. The allegation about the illicit relationship of the applicant with his wife was the grievance against the deceased. The murder was brutal. Hence, he may not be granted bail.

5. Perused the charge sheet. It appears that the wife of the deceased had extramarital relations with the applicant and other co-accused. It also appears from the statement of the witnesses that the wife of the deceased had complaints against her brother-in-law over the share of the land. The deceased left his home on 30.09.2021 in the morning without telling anybody. The last-seen witness also did not immediately state that he saw the applicant with the deceased. He came forward after the dead body of the deceased was found. The prosecution has no material to show that any of the family members of the deceased made an inquiry with the said witness. There appears to be communication between co-

accused Ganesh and the applicant. Mere telephonic communication may not be considered against the accused at this juncture. The mobile handset of the deceased has not been recovered. Considering the papers, there are grounds to believe that the deceased was not happy with his wife. He had left the house. The cumulative effect of the material does not appear strong to decline bail. The investigation has been completed. In view of that matter, the Court is of the view that the application deserves to be allowed on certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SOPAN SOMNATH MORE** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.108 of 2022, registered by Police Station Majalgaon Rural, District Beed for the offences punishable under Sections 302, 201, 120-B of the IPC, on the following conditions :

- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) He shall not contact the wife and brother of the deceased till the conclusion of the trial.

(S. G. MEHARE, J.)

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vmk/-