

AGK

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

BAIL APPLICATION NO.1538 OF 2023

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Shubham Manoj Gulaskar

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Priyal G. Sarda i/bu Ms. Seema Dighe, for the applicant.

Mr. Pandurang H. Gaikwad, APP for the respondent/
State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 9, 2023

P.C.:

1. This is an application under Section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with C.R. No.9 of 2023 registered at Narayangaon police station, for the offences punishable under Sections 302, 120-B r/w 34 of the Indian Penal Code, 1960.

2. The case of prosecution in short is that on 13 January 2023 one dead body of unknown lady was found in the field of Arvind Rebale. Thereafter, inquiry came to be held in respect of her death. On the spot of incident, the Adhar Card of one Shubham Gulaskar was found. Police approached to him and made inquiry with him.

It revealed from his narration that, the deceased was Sunitadevi Yadav, originally resident of Bihar and was residing with the co-accused Nikhilesh Yadav by leaving her husband at Ahamadnagar. They were having love affairs. Thereafter, she got acquainted with Shubham Gulaskar. The love affair came to be developed between them. The said co-accused was residing at village Vadgaon Kandali, Taluka Junnar. Shubham Gulaskar used to visit her house at Ahamadnagar. All of them used to meet with each other frequently. Since two months the said lady was making demand of money to the co-accused Mithilesh Yadav as well as she was also asking present applicant Shubham to meet her frequently. Therefore, both of them conspired to kill her. Then, Shubham took the said Sunitadevi by his motor-cycle and he told her that they are going to Vadgaon Kandali to meet Nikhilesh and he is ready to pay the money. He brought Sunitadevi at Kandali Vadamatha at about 9:00 pm. Thereafter, said Shubham and Nikhilesh took her in the field of Macchindra and, thereafter, they pulled her on down. Shubham hold her legs and co-accused Mithilesh strangulated her by means of her odhani.

3. The applicant was arrested on 13 January 2023. After completion of investigation, charge-sheet is filed against accused persons.

4. Learned sessions Judge by order dated 12 May 2023 rejected the application filed by the applicant under section 439 of the Criminal Procedure Code, 1973. The applicant, therefore, filed present bail application.

5. Learned advocate for the applicant submitted that co-accused Mithilesh Yadav has been released on bail. The applicant has no criminal antecedents to his discredit. There is no material to implicate the application.
6. Per contra, learned APP submitted that though the case is based on circumstantial evidence, circumstance as motive, last seen and recovery are against the applicant.
7. On perusal of the charge-sheet, it appears that there is no material to indicate that the deceased accompanied the applicant on motorcycle in the evening of incident. Prima facie material in the form of statements of shop owner and neighbour supports the prosecution case on the circumstance of last seen. The material also indicates motive as the deceased was live-in relationship with the applicant and there used to be frequent quarrels between the deceased and the applicant. Therefore, according to the prosecution, the applicant had motive to commit murder of the deceased. Moreover, sweater purchased by the applicant along with deceased in the evening of incident prima facie supports the case of prosecution. Aadhar Card of the applicant was found at the spot of incident.
8. In so far as parity with co-accused Mithilesh Yadav is concerned, it appears that circumstances such as last seen, recovery and motive are absent. Therefore, the applicant is not entitled to claim parity with the co-accused. Prima facie, therefore, the material on record indicates circumstances such as last seen, recovery and motive against the applicant.

9. The prosecution has, therefore, made out a case against the applicant. The bail application, therefore, stands rejected. No costs.

(AMIT BORKAR, J.)