



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

BAIL APPLICATION NO.880 OF 2024

Govind S/o Shankar Redewad,
Age-35 years, Occu:Agri.,
R/o-Barbada, Taluka-Naigaon,
District-Nanded.

...APPLICANT

VERSUS

The State of Maharashtra,
Through Police Station Kuntur,
District-Nanded.

...RESPONDENT

...
Mr. Suraj R. Bagal Advocate for Applicant.
Mr. S.B Narwade, A.P.P. for Respondent – State.
...

AND

**BAIL APPLICATION NO.843 OF 2024
WITH
CRIMINAL APPLICATION NO.2272 OF 2024**

Pawan S/o Prabhakar Machanwad,
Age-21 years, Occu:Tractor Driver,
R/o-Barbada, Taluka-Naigaon,
District-Nanded.

...APPLICANT

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station Kuntur,
Taluka- Naigaon, District-Nanded.

...RESPONDENT

...

Mr. Ashish Balaji Shinde Advocate for Applicant in Bail
Application No. 843 of 2024.

Mr. S.B Narwade, A.P.P. for Respondent – State.

Mr. Upendra B. Bilolikar Advocate for Applicant in Criminal
Application No.2272 of 2024

...

AND

BAIL APPLICATION NO.862 OF 2024

WITH

CRIMINAL APPLICATION NO.2274 OF 2024

Chakradhar S/o Digambar Shinde,
Age-32 years, Occu:Agri.,
R/o-Barbada, Taluka-Naigaon,
District-Nanded.

...APPLICANT

VERSUS

The State of Maharashtra,
Through Police Inspector,
Kuntur Police Station,
District-Nanded.

...RESPONDENT

...

Mr. Santosh C. Bhosle Advocate for Applicant in Bail
Application No. 862 of 2024.

Mr. S.B Narwade, A.P.P. for Respondent – State.

Mr. Upendra B. Bilolikar Advocate for Applicant in Criminal
Application No.2274 of 2024

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AND

BAIL APPLICATION NO.994 OF 2024

Madhav S/o Parasram Rathod,
Age-32 years, Occu:Agriculture,
R/o-Krushnur, Taluka-Naigaon,
District-Nanded.

...APPLICANT

VERSUS

The State of Maharashtra,
Through Kuntur Police Station,
Taluka- Naigaon, District-Nanded.

...RESPONDENT

...
Mr. Anil M. Gaikwad Advocate for Applicant.
Mr. D.J. Patil, A.P.P. for Respondent – State.
...

CORAM: S.G. MEHARE, J.**DATE : 2nd JULY 2024****ORDER :**

1. All these applications are arising out of the same crime. Hence, taken up together for orders.
2. The applicants are seeking bail in Crime No.0005 of 2024 registered with Police Station, Kuntur, District-Nanded for the offence punishable under Sections 302, 201, 120-B, 143 of the Indian Penal Code.
3. The prosecution has a case that the deceased and applicants were friends. The deceased was beheaded, tied to the motorbike with the wire and thrown in the river. The family members of the deceased had initially lodged a missing report. The police were searching for him. However, after around 2 and ½ months, the incident was discovered. The prosecution case is

based upon the 'last seen together' and recovery of the dead body at the instance of co-accused Govind. The prosecution has evidence that the accused Govind called the deceased soon before he left the house and thereafter he was missing.

4. It is really a brutal murder. The body was decomposed. However, the dead body was identified from the colour of clothes deceased wore. The piece of wire used for tying the deceased to the motorbike has been recovered at the instance of co-accused Govind. DNA Test Report is awaited. The prosecution has collected the oral evidence of 'last seen together'.

5. The respective counsels for the accused tried their level best to convince the Court that there was an inordinate delay in lodging the report. Since the missing report was lodged, there was no reason to suspect the accused/applicants. There was a serious discrepancy about the 'last seen together' theory. The witnesses at one place say that the deceased left home on receiving a phone call, and the same witness at the other place says that he saw the deceased in the company of the accused at the bus stand. The police have recorded the statement of one witness who disclosed that the deceased was with one Sahebrao Maddewad. However, his statement was not recorded. Reading the statements in their entirety, the arguments were advanced

that Sahebrao was the prime witness who knew the deceased. As far as phone calls are concerned, those are the routine calls as they were friends. No inference can be drawn from those calls that the deceased was called with the intention to kill. Only on weak circumstantial evidence should they not languish in jail. They are young boys having no antecedents to their discredit.

6. In addition thereto, learned counsel for accused Pawan argued that on the alleged day of the incident, there was marriage ceremony in the village; hence, it was impossible for the applicants to identify the persons last seen with the deceased. Whatever evidence collected is not sufficient to link the accused with the incident. The applicant, being a friend of the deceased, has been falsely implicated in the crime. There are different versions of motive in different places. That also raises serious doubt about the prosecution case. Since the investigation has been completed, he prayed for bail.

7. Learned APPs have strongly opposed the applications. They have referred to the CDR reports and the recovery of the wire at the instance of one of the co-accused. It is their contention that the piece of wire recovered at the instance of the co-accused matches with the wire by which the dead body was tied to the motorbike. The dead body was completely decomposed. One

independent witness stated that on the day of the incident, he saw the applicants and deceased in a field in the light of his motorbike. He has explained the reasons for not disclosing the incident immediately. Naturally, nobody doubted the company as they were all friends. Therefore, he did not feel it appropriate to disclose the facts to the police as, on that day, nobody knew that such an incident would happen or happened. The colour of the clothes, which the independent witness disclosed, matches with the clothes recovered from the person of the deceased. They have prayed to dismiss the applications.

8. Though the learned counsels for the accused have tried their level best to convince that discrepancies are there, which raises doubt, the fact remains that the dead body was found beheaded and tied to the motorbike. The last call was there between the accused, Govind, and the deceased, when he left the house. At this juncture, the Court has not to examine the statement of the witnesses as if it is a trial. The Court should prima facie satisfy that there is some material to believe the prosecution case as probable. Examination and non-examination of the witnesses is subject to explanation.

9. The witnesses would explain the discrepancies, and the Trial Court would assess whether it is fatal to the prosecution

case. The gravity of the offence is important factor while deciding the bail application. The overall evidence collected against the applicants and their relationship with deceased is sufficient to believe that prima facie case is made out against the applicants. Only the discrepancies, as pointed out by the learned counsel for the applicants, would not entitle the applicants to get the bail.

10. For the above reasons, all the bail applications stand dismissed.

11. Criminal Application Nos. 2272 of 2024 and 2274 of 2024 stand disposed of.

[S.G. MEHARE, J.]