



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

BAIL APPLICATION NO. 1458 OF 2024

RAJESH @ TATYA @ GAJANI BALAJI KAMBALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Sandip P. Sonwane
APP for Respondent : Mr. S. B. Pulkundwar
...

CORAM : S. G. MEHARE, J.

DATE : 30-08-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent.
2. The applicant seeks bail in C.R.No.382 of 2023 registered with Dharashiv City Police Station, Dharashiv, for the offences punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.
3. The prosecution case, in brief, was that on 16.09.2023 the applicant and the deceased were consuming liquor at the house of Prem Amar Chavan. Then they went to pond of Kokate for swimming. However, the deceased was missing. Hence, a missing report was lodged. The investigating Officer investigated crime and found that the applicant assaulted the deceased and committed murder.

4. The learned counsel for the applicant submits that witness Prem Amar Chavan was examined on 27.09.2023. In a General Diary dated 27.09.2023, it has been mentioned that the inquiry was made with Amar Chavan. On recording the statement of Amar Chavan, he could not arrive at any conclusion that, on that day how the applicant was called, he concocted and confessed the crime, at least about going to Kokate's pond.

5. The learned counsel for the applicant pointed out that the statement of Prem Amar Chavan recorded after one month and at that time he stated against the applicant. The Investigating Officer did not place on record his statement recorded on 27.09.2023. He deliberately hide it. The witnesses coming forward are stating that the deceased was lastly seen in the company of the applicant were belatedly stated before the Investigating Officer.

6. The learned A.P.P. has tried his level best that few witnesses narrated against the applicant that the deceased and the applicant were lastly seen together. Both had consumed liquor and then they went for swimming in the pond near Papnas Nagar. Since then, the deceased was disappeared. The skull bone of deceased, his cloths and footwear were found and recovered at the instance of the applicant. The skull of the deceased was sent for D.N.A. His blood matched with his mother. However, he does not have an

explanation about recording statement of Prem Amar Chavan on 27.09.2023. Those statements are not made part of the chargesheet. That raises a doubt about genuineness of the witnesses of last seen together. His statement was recorded belatedly after a month. In the circumstances, it can be said that the evidence against the applicant is balancing. Hence, the order:-

ORDER

- i) The application is allowed.
- ii) Applicant - Rajesh @ Tatya @ Gajani Balaji Kambale be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He should not tamper with the prosecution witnesses.
 - (b) He should attend the trial on each and every date.

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

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