



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

BAIL APPLICATION NO. 1833 OF 2024

Gajanan Uttamrao Chopade
Age: 32 years, Occ.: Agril.,
R/o. Dhar, Tq. & Dist.Parbhani.Applicant

Versus

The State of Maharashtra
(At the instance of Parbhani Gramin
Police Station)Respondent

.....
Advocate for Applicant : Mr. Abhaysinh K. Bhosle
APP for Respondent: Mr.V.M.Chate
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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 03 MARCH, 2025
PRONOUNCED ON : 04 MARCH, 2025**

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in crime no.95 of 2024 registered at Parbhani Gramin Police Station, Dist.Parbhani for the offence under Sections 302, 120B r/w 34 of the Indian Penal Code (IPC).

2. Pointing to the date of arrest of applicant as 30-03-2024, learned counsel submitted that there is false implication. That, on mere suspicion, FIR is lodged against unknown person. That, case is

based on circumstantial evidence. That, there is recovery at the instance of applicant. That, investigation is already over and chargesheet is filed in June 2024 itself. He further pointed out that alleged occurrence is of 27-03-2024, but dead body is noticed and detected on 29-03-2024 i.e. after two days and thereafter, applicant is arrested. Subsequently, allegations are made that applicant was in the company of deceased. Further, learned counsel submitted that even theory of last seen together cannot be applied as time gap is of more than three days. Further, learned counsel submitted that now investigation is over and chargesheet having filed in June 2024 itself and there being no immediate prospects of matter going for trial, he questions custody of applicant and urges for grant of bail.

3. Learned APP opposed on the ground that initially though FIR is against unknown person, detailed investigation revealed applicant's involvement. That, there is recovery of clothes of applicants. He pointed out that now investigation is over and even charge is already framed in November 2024 and therefore, according to learned APP there are bright chances of trial commencing soon and even coming to a conclusion.

4. Heard. Perused the FIR dated 29-03-2024 at the instance of Devidas Dashrath Bukare, who is apparently Police Naik and he has reported that information was received about a dead body of a male person lying in Samsapur Shivar and therefore, on his report, crime bearing no.95 of 2024 was registered. That, murder of unknown person for unknown reason by unknown person is reported. On 30-03-2024 i.e. next day, he again gave supplementary statement. That, on 29-03-2024, lady namely Shital Chopade approached Police Station and reported missing of her husband Shrikrishna Chopade since 27-03-2024. Therefore, said lady and her relatives were taken to mortuary and dead body found on 28-03-2024 shown to Shital and she identified dead body to be of her husband. Informant claims that it is learnt from said lady that on 27-03-2024 at around 07:00 p.m., Dattarao Chopade and Gajanan Chopade had come and taken her husband on the pretext of bringing Tipper from Mumbai and took him on Motorcycle and since then, there was no contact with her husband. He further stated that it was also learnt from wife of deceased that Parmeshwar Chopade suspected that his cousin brother's wife had illicit relations with Baliram Sakhare and in the backdrop of such suspicion, Baliram was assaulted and that Parmeshwar and Dattarao are relatives and deceased was telling

Dattarao to take care of his relatives and hence, on above information crime seems to have registered against Dattarao and Gajanan.

5. Apparently as stated, FIR is initially by Police personnel on 29-03-2024 regarding information about dead body of unknown person lying. Crime is registered on 29-03-2024. On 29-03-2024, wife of deceased allegedly approached Police reporting missing of her husband and then, above information seems to have surfaced. Therefore, there is no direct evidence. There are allegations of murder in the backdrop of suspicion and illicit relations. Thus, case is primarily based on circumstantial evidence. What is *prima facie* emerging is that deceased left house in the evening on 27-03-2024, dead body was noticed on 28-03-2024 and FIR is registered on 29-03-2024 and on 29-03-2024, dead body was identified by wife of deceased. Therefore, considering the huge gap and above dates, when case seems to be based on circumstantial evidence, and that investigation is over and chargesheet is now filed in June, 2024 itself and when no recovery or discovery is shown to be made at the instance of present applicant, and further taking into account the submission made by learned APP that since framing of charge in

November 2024, there is no further progress, apparently uncertainty prevails about commencement of trial itself. Hence, applicant succeeds. Accordingly, following order is passed :

ORDER

- (i) Application is allowed.
- (ii) Applicant Gajanan Uttamrao Chopade be released on bail in connection with Crime no.95 of 2024 registered with Parbhani Gramin Police Station, Dist.Parbhani on executing Personal Bond of Rs.15,000/ with one surety in the like amount.
- (iii) Applicant shall not tamper prosecution evidence.

(ABHAY S. WAGHWASE)
JUDGE