

**MHKO010032072024**



**ORDER BELOW EXH.3 IN SESSIONS CASE NO. 161/2024**

**State of Maharashtra .. State**

**Vs.**

**Sangram Padalkar .. Applicant/accused.**

1. This is first bail application moved by the accused No.1 in C.R.No.797/2023 registered with Juna Rajwada Police Station under Section 302 r.w. section 34 of I. P. C

2. As per case of prosecution, Shubham Ashok Patil, Sangram Rangrao Padalkar and Shubham @ Banda Prakash More were friends and used to roam around together. Shubham's father had advised him not to be in their company due to their improper behaviour. Therefore, Shubham used to avoid going out with both of them, but they both abused him and used to threaten him to go out with them. They used to spend from Shubham's pocket. On 29/11/2023, Shubham left with Sangram and Banda and did not return home. On 30/11/2023, Shubham's dead-body was found in Mailkhadda ground. His head was crushed with a big stone. Therefore the informant lodged FIR on same day against both the accused.

3. It is stated by the applicant that he has not committed any offence but he is arrested on the basis of suspicion. It is stated that FIR is based on hearsay evidence and there is no eye witness to the incident. None of the witnesses have stated any specific act by present accused and the applicant had no motive to commit said murder. Investigation is complete and charge-sheet is filed, and therefore it is contended that physical custody of the accused is not required.

4. Ld. APP and I.O. opposed the bail application by filing say at Exh.6 and contended that accused No.1 is habitual offender and C.R.Nos. 45/2023 and 313/2017 are pending against him. He was absconding after the incident, and there is possibility that he will flee away from justice. There is apprehension that the applicant may commit similar offence in future or may pressurize the witnesses. It is stated that CCTV Footage is available whereby it can be seen that present applicant and the deceased went to Mailkhadda ground on the motorcycle.

5. Heard both the sides. Ld. Advocate for the accused argued as per application and submitted that there is lack of motive on part of the applicant and he was not author of the injuries. He argued that the case is based on circumstantial evidence and 'last seen together' is a weak

piece of evidence. He pointed out that the applicant himself was residing at Padalkar colony and therefore his presence near said colony was very natural. Per contra, Ld. APP brought my attention towards various panchnamas and CCTV Footage as well as statements of the witnesses. He argued that prima facie, applicant's involvement can be seen in a very serious offence and he is habitual offender. Ld. APP posed apprehension that if the applicant is released on bail, he will tamper with the evidence.

6. I have carefully considered rival submissions and have perused the charge-sheet as well as citations relied upon by the Ld. Advocate of the applicant. There are serious allegations of murder levelled against the applicant and the offence is punishable with death or life imprisonment. As per FIR, Shubham was friend of the applicant and another accused Banda and they used to roam together.

7. Police papers reveals that on night prior to the said incident, Shubham was seen together with both the accused in Hotel Indira Sagar Bar. From the CCTV Footage of liquor bar, it can be seen that there was some quarrel between present applicant and Shubham and the applicant was apologizing to Shubham by touching his feet. Thereafter they left together on a motorcycle and went towards Mailkhadda. Prima facie, since there was quarrel between the

friends and they were under the influence of alcohol, there appears motive for the crime.

8. The applicant has relied upon following case laws in which various Hon'ble High Courts held that last seen together is a weak piece of evidence. **i)Dinesh Vs. State of Karnataka, AIR Online 2018 KAR 333, ii) Mahadevaswamy Vs. State of Karnataka, AIR Online 2019 KAR 174, iii)Tek Chand @ Indu Vs. State of Himachal Pradesh, AIR Online 2019 H.P 431, iv)Pranjal Jain @ Aadi Jain Vs. State of Madhya Pradesh, AIR Online 2021 MP 2100 and v)Rahul Kumar Vs. State of Bihar, AIR Online 2021 PAT 982.**

9. Prima facie there is not only last seen together evidence, but as the case is based on circumstantial evidence, there are other factors to be looked into. There is statement of witness who stated that present applicant came to his house and they were having blood on the bottom of their pants. Although extra judicial confession and its evidentiary value will be considered during trial, it can be considered for taking into account prima facie case. The witnesses have also stated that both the accused were under influence of alcohol and they were quarreling in bar.

10. Shubham died due to head injury and the photographs filed on the record reveal that the attack was

brutal as entire head was crushed in such a way that blood was splattered all over the place. One of the eye was popping out and even the police took some time to identify the body as the face was too disfigured. The police have recovered blood stained pants from both the accused which prima facie connect them with crime.

11. CCTV Footage shows that they were last seen together with the deceased. Although, applicant might be residing in same colony, prima facie, he was seen together with Shubham during late hours and going towards Mailkhadda ground wherein his dead-body was found. There is not much time-gap between CCTV Footage and alleged incident. Statements of the witnesses show prima facie involvement of present applicant in a serious offence of murder. Considering his antecedents, the apprehension of the prosecution in respect of tampering or fleeing away is valid. The prosecution is ready to conduct the matter as soon as the report of Forensics lab is received. Therefore, considering the nature and gravity of the offence and above mentioned facts, I am not inclined to release the applicant on bail. Hence, I pass following order.

**ORDER**

Bail application is rejected.

Kolhapur.  
Date : 20/02/2025

(Aparna S. Waikar)  
Additional Sessions Judge,  
Kolhapur.

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the Stenographer	Mrs.S.R.Tambvekar
Name of Court	Mrs. Aparna S. Waikar, Additional Sessions Judge, Kolhapur.
Date of Dictation	20/02/2025
Order signed by the P.O. on	20/02/2025
Order uploaded on	20/02/2025