

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

Criminal Application No.356 of 2015

Manoj Prakash Balid. **.. Applicant.**

Versus

The State of Maharashtra. **.. Respondent.**

Shri. Kakasaheb J. Tandale, Advocate, for applicant.

Shri. N.B. Patil, Additional Public Prosecutor, for
respondent.

With

Criminal Application No.455 of 2015

Bhausahab S/o. Genu Gavali
And Another. **.. Applicants.**

Versus

The State of Maharashtra. **.. Respondent.**

Shri. N.B. Narwade, Advocate, for applicants.

Shri. N.B. Patil, Additional Public Prosecutor, for
respondent.

CORAM: T.V. NALAWADE, J.

DATE : 25th FEBRUARY 2015

ORDER:

1) Both the applications are filed for relief of bail. Both the sides are heard. This Court has perused papers of investigation.

2) Deceased Vaishali was sister of the complainant, Vitthal Kotkar. She had dispute of matrimonial nature with her husband Santosh, the main accused. Son of this couple was in the custody of Santosh and proceeding was filed in the Court for custody of the son by the deceased. She had filed proceeding for maintenance against Santosh. She had filed proceeding to prevent Santosh from disposing of his immovable property. There are allegations that due to this dispute and the proceedings filed by the deceased, Santosh took decision to finish her. There is allegation that applicant Manoj Balid is a friend of Santosh and he helped Santosh in committing murder of deceased Vaishali. Applicant No.2 from second proceeding is the father of Santosh and

applicant No.1 is husband of sister of Santosh. There are allegations made by the complainant that they also helped Santosh in murdering the deceased.

3) The deceased was living with the family of the complainant till 27-10-2014. The State has collected material to the effect that even when there was dispute of aforesaid nature, Santosh established contact with the deceased on phone from few days prior to the date of incident. Such CDR record is collected. On 27-10-2014 Santosh called the deceased on phone and from that place he took the deceased in four wheeler Indica Car to Malshej Ghat area. In the car itself Santosh committed murder of the deceased by strangulation and when the car went to Malshej ghat area the dead body was thrown in the valley. The dead body was found after three weeks from 27-10-2014. The State has collected material to show that said car was being driven by Manoj Balid.

4) There are statements of persons like owner of the Indica Car, the regular driver appointed by the owner of the car to the effect that Manoj had requested to give the car to him and he had promised to pay the fare for it.

There are statements that the car was accordingly handed over to Manoj on 27-10-2014 and on that night the car was returned by Manoj to the regular driver along with fare charges. There is material like statement of neighbour of the deceased showing that he knew the deceased and also Santosh. He is a hawker. On 27-10-2014 he had seen the deceased in the company of Santosh near Indica car and there was driver in the car and in that car these three persons had left the place. After arrest of Manoj, test identification parade was held. Opportunity was given to this witness to identify said driver. The witness identified Manoj Balid as the said driver. Thus there is material as against Manoj Balid like the circumstance of last seen.

5) The learned counsel for the applicant Manoj Balid submitted that on that date Manoj had reached Santosh and the deceased upto one hotel, he had dropped them there and he does not know as to what had happened after-that. This submission is not at all acceptable at this stage as there is no such material supporting contention of the applicant. He could have

come forward immediately or he should have given statement accordingly but that did not happen and the police were required to collect the aforesaid material. Thus there is material as against Manoj Balid to make out a strong prima facie case for offence of murder of the wife of Santosh. The dead body was in decomposed condition but it was lying in Ghat area and so not much can be made out from the circumstance that at present there is no opinion that it is homicidal death.

6) So far as the applicants from the second proceeding are concerned, learned APP submitted that there is CDR record (call details record) showing that on the date of the incident applicant No.2 was in touch with Santosh and there were many calls between them. As against applicant No.1 there is only circumstance like his relationship with accused Santosh. In view of nature of material collected as against the applicants from the second proceeding and the fact that they are behind the bars since 12th December 2014 this Court holds that it is not desirable to keep them behind the bars till disposal of the case.

7) In the result, Criminal Application No.356 of 2015 filed by Manoj Balid is rejected.

8) Criminal Application No.455 of 2015 filed by applicants (1) Bhausahab Genu Gavali and (2) Chimaji Rambhau Sabale is allowed. They are to be released on bail in Crime No.320/2014 registered in Kotwali Police Station, District Ahmednagar for offences punishable under sections 302, 364, 201, 109 of Indian Penal Code on their furnishing PB and SB of Rs.15,000/- (Rupees fifteen thousand) by each of them. They are not to tamper with prosecution witnesses. They are not to commit similar offences. They are not to go to the vicinity of residential places of the witnesses till disposal of the case.

Sd/-
(T.V. NALAWADE, J.)

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