

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

CRIMINAL APPLICATION NO. 938 OF 2015

Ganesh S/o Kashuba Pathak

.... **APPLICANT**

V E R S U S

The State of Maharashtra

.... **RESPONDENT**

.....

Mr. U.S.Malte, Advocate for Applicant.

Mrs. Pratibha Bharad, A.P.P. for

Respondent - State.

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CORAM : V.M.DESHPANDE, J.

DATE : 20th MARCH, 2015

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PER COURT :

1. This is an application for enlargement on bail by the present applicant in connection with Crime No. 151/2013 registered with Tofkhana Police Station, Dist. Ahmednagar for the offence punishable u/s 302, 326, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and u/s 37 (1) (3)/135 of the Bombay Police Act.

2. Heard Mr. U.S.Malte, the learned counsel for the applicant and Mrs. Pratibha Bharad, the learned A.P.P. for respondent – State in extenso.

3. The investigating agency has already completed its entire investigation and charge sheet is already filed.

4. It is alleged that first informant Deepak Ramdas Bhingardive has lodged report dated 06/04/2013 that dispute took place over the construction of the house by one Dinesh Kastushiya and Vishal Goher by making encroachment on the plot of Chintu Alhat, who lost life in the scuffle between two groups.

5. After hearing the learned A.P.P., it is clear that the name of present applicant firstly surfaced in his supplementary statement, which is recorded on 30/04/2013 i.e. after eighteen days. Perusal of the said supplementary statement also reveals that the only allegation against the present applicant is that the first informant knew the name of the present applicant through police and the police have arrested the present applicant only on the basis of the statement of co-accused. The statement of co-accused is inadmissible in evidence. Except the statement of co-accused, there is no evidence against the applicant. In that view of the matter, the present Criminal Application needs to be allowed.

6. Hence, I pass the following order :

(i) Applicant Ganesh Kushaba Pathak be released on bail on he executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] with two solvent sureties of like amount in connection with Crime

No. 151/2013 for the offences punishable u/s 302, 326, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and u/s 37 (1) (3)/135 of the Bombay Police Act registered with Tofkhana Police Station, Dist. Ahmednagar.

- (ii) The applicant shall not enter the Corporation limit of Ahmednagar city and Bhingar for the period of two years or till the trial is concluded whichever is earlier, except prior permission of the learned Sessions Judge.
- (iii) Criminal Application No. 938 of 2015 is disposed of.

[V.M.DESHPANDE, J.]

KNP/Cr.Apln. 938.2015