

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Application No. 1194 Of 2015.

BALU @ BAPPA S/O RAMBHAU GAIKWAD.
VERSUS
THE STATE Of MAHARASHTRA.

Appearance =>

Mr. S.B. Solanke, Advocate for the Applicant.

Mrs. V.A. Shinde, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. DESHPANDE, J.

DATE : 23rd MARCH, 2015.

Per Court :-

By filing present Criminal Application, the Applicant is seeking his enlargement on bail in connection with CR No.113/2014 registered with Police Station Parali(Vaijinath) [City] Dist. Beed, for the offences punishable under Section.s. 302, 394, 201 of the Indian Penal Code, 1860. (Sessions Case No.76 Of 2014 pending on the file of the learned Additional Sessions Judge, Ambajogai, Dist. Beed.)

[2] Heard Mr. S.B. Solanke, learned counsel for the Applicant and Mrs. V.A. Shinde, learned Additional Public Prosecutor for the State.

[3] Deceased is Vaijnath @ Munna Devidas Salunke. According to the prosecution, there is no direct evidence appearing in the entire prosecution case against the present applicant. Investigating Agency

has already filed the Charge-Sheet. Entire prosecution case is based on circumstantial evidence and circumstances which the learned Additional Public Prosecutor tried to use against the present applicant is two statements of applicant/accused recorded during the course of investigation under Section 27 of the Indian Evidence Act, leading recovery of his clothes from his house and also one stone, alleged weapon used in the commission of offence.

[4] In so far as said stone is concerned, it is clear from the Charge-Sheet that said stone is recovered from the place open to the public at large. Further the stone appears to have been washed due to rain water. In that view of the matter, though Chemical Analysis report is positive, prima face, the applicant cannot be connected with the said Crime especially when the place from where the stone is recovered is open to everybody.

[5] Further the Chemical Analysis report clearly shows that, no blood was found on the clothes of the present applicant, recovered under Section 27 of the Indian Evidence Act.

[6] Further the Charge-Sheet is already filed and the applicant is in jail since 8th August, 2014. Considering this fact, coupled with fact that, entire case of the prosecution is based only on the statements of present applicant recorded under Section 27 of the Indian Evidence Act, this court is of the view that, the applicant can be released on bail, by imposing certain conditions. Hence, I pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) Applicant - BALU @ BAPPA S/O RAMBHAU GAIKWAD shall be released on bail on he executing PR. Bond of Rs. 10.000/- [Rs.Ten Thousand] with one solvent surety in the like amount, in connection with CR No.113/2014 registered with Police Station Parali (Vaijinath) [City] Dist. Beed, for the offences punishable under Section.s. 302, 394, 201 of the Indian Penal Code, 1860 (Sessions Case No.76 Of 2014 pending on the file of the learned Additional Sessions Judge, Ambajogai, Dist. Beed.)

(iii) The applicant shall attend the Police Station Parali (Vaijinath) [City] Dist. Beed, once in a week preferably on every Sunday in between 3.00 p.m. to 4.00 p.m., till Charge is framed by the learned Additional Sessions Judge, Ambajogai, Dist. Beed.

(V.M. DESHPANDE, J.)