

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

Criminal Application No. 1382 Of 2015.

DHANAJI S/O APPARAO KAMBLE.

VERSUS

THE STATE OF MAHARASHTRA.

Appearance =>

Mr. V.D. Gunale, Advocate for the Applicant.

Mr. A.S. Shinde, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 9th April, 2015.

Per Court :-

Present Criminal Application is filed by the applicant for grant of regular bail, in connection with CR No. 63/2014 registered with Police Station, Wadhona, Taluka – Udgir, District – Latur for the offences punishable under Section.s. 302 read with 34 of the Indian Penal Code.

[2] Heard Mr. V.D. Gunale, learned counsel for the Applicant and Mr. A.S. Shinde, learned Additional Public Prosecutor for the State of Maharashtra.

[3] In the present case, the investigation is already over. Charge-sheet is filed. First Information Report is lodged by Eknath

Tukaram Surnar. Name of deceased is Mahadabai w/o Eknath Surnar. Present applicant is the step brother of Mahadabai and also son-in-law of the first informant and deceased Mahadabai. Dead body of Mahadabai was found on the road. Admittedly, there is no eye witness account. Entire case of the prosecution is based on circumstantial evidence.

[4] According to Mr. Shinde, learned Additional Public Prosecutor there is statement of one Sattar Wajirsab Pathan, who runs his Hotel at Wadhona, Taluka – Udgir where-in, on the day of incident, deceased Mahadabai was seen lastly and at that time two to three persons came there and thereafter, Mahadabai left the Hotel with those persons.

Mr. Shinde, learned Additional Public Prosecutor has stated that no Identification Parade was held or conducted by the Investigating Officer during the course of investigation. Nor anything is available in the charge sheet to suggest that such identification parade was held.

[5] In view of non holding/conducting the test identification parade, statement of Sattar, prima facie, loses its importance. Statements of Yeshwant Dhondiba Patil and Digambar Kishanrao Surnar only disclose that they found present applicant on the place, while passing from some distance, wherein the dead body was located.

[6] Looking to the nature of evidence appearing in the charge sheet against the present applicant, further continuance of applicant in jail, is not warranted.

[7] Mr. Shinde, learned Additional Public Prosecutor has submitted that there is possibility of pressurizing the Satyakala, who is one of the witness and wife of present applicant. Undisputedly, relations between Satyakala and present applicant are disturb and therefore, there is no possibility that he will contact his wife, who resides at village Anupwadi. The said apprehension of learned Additional Public Prosecutor can be taken care of by imposing stringent conditions upon the applicant. Hence, I pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) Applicant - DHANAJI S/O APPARAO KAMBLE shall be released on regular bail on he executing P.R. Bond of Rs. 15,000/- [Rs. Fifteen Thousand.] with two solvent sureties in the like amount, in connection with CR No. 63/2014 registered with Police Station, Wadhona, Taluka – Udgir, District – Latur for the offences punishable under Section.s. 302 read with 34 of the Indian Penal Code.

(iii) Applicant shall not enter into territorial jurisdiction of village Anupwadi, Tal. Udgir, till conclusion of trial.

(iv) Applicant shall give complete address of his residence to the Investigating Officer and shall not change his residential address, without giving prior intimation to the Investigating Officer.

(v) Applicant is directed to attend Police Station, Wadhona, Taluka – Udgir, District – Latur twice in a fortnight, till charge is framed, preferably on every Sunday, between 11.00 a.m. to 2.00 p.m.

(vi) Needless to mention, any observation made in this order are purely prima facie in nature and those are made made only for the purpose of deciding the present application and the learned trial court, who ultimately conducting the trial, shall not get himself influenced by any of the observations made in this order.

(vii) With this Application is allowed and disposed of.

(V.M. DESHPANDE, J.)