

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

Criminal Application No. 1470 Of 2015.

**SURESH S/O LAXMAN JADHAV.
VERSUS
THE STATE Of MAHARASHTRA.**

Appearance =>

Mr. Abhay R. Rathod, Advocate for the Applicant.

Mr. U.H. Bhogale, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 6th April, 2015.

Per Court :-

Present Criminal Application is filed by the applicant for grant of bail, in connection with CR No.64/2014 registered with Police Station, Lohara, District – Osmanabad for the offences punishable under Section.s. 302, 364, 201 read with 34 of the Indian Penal Code.

[2] Heard Mr. Abhay R. Rathod, learned counsel for the Applicant and Mr. U.H. Bhogale, learned Additional Public Prosecutor for the State.

[3] First Information Report is lodged by one Dattu Bhairu Kajale, brother of deceased – Digambar @ Pappu against four persons. Allegations made in the First Information Report are that mother of

first informant was having illicit relations with present applicant, which was objected by the deceased and, therefore, mother of first informant with the help of other accused have committed the murder of Digambar @ Pappu.

[4] Investigation is over. Charge-Sheet is filed. In the entire charge-sheet, there is no material against the present applicant. There is no recovery at the instance of present applicant. Recovery is at the instance of Sakhubai Kajale and one Pintu Rathod.

[5] Mr. Bhogale, learned Additional Public Prosecutor submitted that, there is motive against the present applicant. Motive by itself is not sufficient in absence of other corroboration and incriminating evidence against the present applicant.

[6] The learned Judge of court below has rejected the application filed on behalf of the present applicant only on the ground that, he has rejected the application filed on behalf of other accused for grant of bail. Bail application of each of the applicant is to be considered independently and incriminating material against each of the accused has to be evaluated while granting/rejecting the bail application.

[7] There is no material against the present applicant. It is cardinal principle of law that, suspicion however strong it may be, it cannot take place of proof. Charge-Sheet is already filed, therefore, further custody of present applicant is not required. In that view of the matter, following order is passed :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant - SURESH S/O LAXMAN JADHAV shall be released on bail on he executing PR. Bond of Rs. 5,000/- [Rs. Five Thousand.] with one solvent surety in the like amount, in connection with CR No.64/2014 registered with Police Station, Lohara, District – Osmanabad for the offences punishable under Section.s. 302, 364, 201 read with 34 of the Indian Penal Code.
- (iii) The applicant shall attend Police Station, once in a week, preferably on every Sunday, between 11.00 a.m. to 2.00 p.m., till charge is framed.
- (iv) Criminal Application is disposed of.

(V.M. DESHPANDE, J.)