

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD.  
APPELLATE SIDE JURISDICTION

**CRIMINAL APPLICATION NO. 1511 OF 2015**

BALAJI S/O GANPATRAO KARPUDE  
VERSUS  
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Nimbalkar Aniruddha A.  
APP for Respondent: Mrs.P.J.Bharad.

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CORAM : **V. M. DESHPANDE, J.**  
DATE : 09<sup>th</sup> April, 2015.

Per Court:

1 This is an application filed under Section 439 of the Code of Criminal Procedure for grant of bail.

2 The Applicant is arrested on 23<sup>rd</sup> October, 2014, in connection with Crime No.149 of 2014, registered at Police Station Parali (City) of District Beed, for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code and Sections 3(2)(5) of the S.C., S.T. (Prevention of Atrocities) Act, 1989.

3 I have heard Mr. A.A. Nimbalkar, learned counsel for the Applicant and Mrs.P.J.Bharad, learned Additional Public Prosecutor for the State.

4           In the present case, the Investigating Agency has already completed his entire investigation and charge-sheet is filed before the Court of law.

5           The date of occurrence is 21<sup>st</sup> October, 2014 at 11:45 hours at night and the FIR is lodged on 22<sup>nd</sup> October, 2014. The FIR is lodged by Kamalbai, mother of deceased Sunil. The first informant is not an eye witness.

6           According to the FIR, the first informant received information from one Manoj that her son is killed in from of the house of one Shirsath and Kakre, at Parali. According to the FIR, a dispute occurred in the night with the present Applicant.

7           According to the learned APP, in the charge-sheet, there is evidence against the present Applicant in the nature of eye witness account, which is given by Santosh Indarkar and recovery of knife at the instance of the present Applicant has made in his recovery statement on 1<sup>st</sup> November, 2014.

8           I have gone through the statement of Santosh, the eye witness. It is clear that his statement is recorded on 30<sup>th</sup> December, 2014, whereas the date of occurrence is 21<sup>st</sup> October, 2014. Thus, it is clear that the statement of the eye witness is recorded at belated stage. No

doubt, an explanation is given in the statement itself that he was required to go to Pune.

Santosh is ordinarily resident of Pune for his work. As per his statement, he has been Parali for Diwali celebration. His statement further states that the deceased Sunil was known to him and he has seen the Applicant alongwith others going on motorcycle. He, thus, claimed that he followed the Applicant and others. That time, he noticed the present Applicant was returning back alongwith weapon commonly known in the area as "Katti". Thereafter, when he proceeded further, he found Sunil in dead condition. He immediately informed the said fact on his mobile phone to his friend Nitin. He further states that for two days, he was in Parali town and after two days, he has left the town. In this aforesaid backdrop, not reporting the matter to the police for two days assumes importance.

9 In so far as the recovery is concerned, it is clear that the said is made from the open drainage, which is accessible to everybody.

10 Looking to the aforesaid nature of the evidence appearing against the present Applicant and the fact that the charge-sheet is already filed, further continuation of the Applicant in jail, in my view, is unwarranted.

11 Hence, I pass the following order:

- I. Criminal Application No.1511 of 2015, is allowed.
- II. Applicant – Balaji s/o. Ganpatrao Karpude be released on bail on he executing P.R. Bond of Rs.25,000/- with two solvent sureties of the like amount in connection with Crime No.149 of 2014, registered at Police Station Parali (City) of District Beed, for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code and Sections 3(2)(5) of the S.C., S.T. (Prevention of Atrocities) Act, 1989.
- III. Bail before the trial Court.
- IV. The Applicant shall attend the Police Station Parali (City) twice in a week, preferably on very Monday and Wednesday and he shall remain present in the Police Station from 11:00 am to 03:00 pm on each visit till the charge is framed by the learned Court below.
- V. The Applicant shall give his residential address, his mobile number to the Investigating Officer and shall

not change his residence unless intimated to the Police Station.

VI. The Applicant shall not influence any of the prosecution witnesses.

VII. The observations made in the present order are *prima-facie* in nature and those are made only for the decision in the present application.

VIII. The learned Court below shall not get influenced by such observations while conducting the trial.

IX. With these observations, the criminal application is allowed.

**[ V. M. DESHPANDE, J. ]**

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