

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

CRIMINAL APPLICATION NO. 1556 OF 2015

GAJENDRA DHANANJAY PHULARE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Sapkal V.D.
APP for Respondent : Mr.A.V.Deshmukh.
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CORAM : **V. M. DESHPANDE, J.**
DATE : 09th April, 2015.

Per Court:

1 The present application is moved by Gajendra Dhananjay Phulare, who is accused of killing his own father by name Dhananjay. The FIR is lodged by the present Applicant himself on 5th October, 2014, with Police Station Kannad, District Aurangabad and on the basis of same, the offence was registered against unknown person for the offence punishable under Section 302 of the Indian Penal Code.

2 I have heard Mr.V.D.Sapkal, learned counsel for the Applicant and Mr.A.V.Deshmukh, learned Additional Public Prosecutor for the State.

3 The Investigating Agency has already completed his entire investigation and charge-sheet is already filed before the Court of law.

4 According to the learned APP, though there is no eye witness, there are two circumstances, which are appearing against the present Applicant, they are

- (i) the extra judicial confession with witness Amar, and
- (ii) there is a motive.

5 In so far as the motive is concerned, undisputedly, it appears that the deceased was habituated to drink though he was holding a high Government post and under influence of the liquor, he used to give all sorts of ill-treatments to his wife Kadubai and daughter Jyoti. The present Applicant is a software engineer and at the relevant time, was working at Pune. Kadubai had called the present Applicant since she and her daughter Jyoti received ill-treatment at the instance of her husband and she was driven out from the house. The Applicant, therefore, required to go to town Kannad from Pune on 4th October, 2014. On 4th October, 2014, Kadubai filed a complaint against her deceased husband Dhananjay. On the basis of which, offence was registered against him. Thus, according to the learned Additional Public Prosecutor, there is strong motive against the present Applicant.

6 In so far as extra judicial confession is concerned, according to the prosecution, said is made to Amar, one of the cousin of the present Applicant. The statement of Amar is recorded on 8th

October, 2014. It is to be noted that on 5th October, 2014 itself, the Applicant was arrested. Whether the statement made by the present Applicant to Amar is in a strict sense in extra judicial confession or not, will have to be decided at the stage of trial itself.

7 The statement of Kadubai and from extra judicial confession, it is clear that the incident appeared in the spur moment. Therefore, there is every possibility of the Applicant being held responsible for lesser offence, cannot be ruled out. In that view of the matter and in view of the fact that charge-sheet is already presented, the further custodial presence of the Applicant is not required.

8 Hence, I pass the following order:

- I. Criminal Application No.1556 of 2015, is allowed.
- II. Applicant – Gajendra Dhananjay Phulare be released on bail on he executing P.R. Bond of Rs.10,000/- with one solvent surety of the like amount, in connection with Crime No.I-238 of 2014, registered at Kannad Police Station, Taluka Kannad, District Aurangabad, for the offence punishable under Sections 302 of the Indian Penal Code.

- III. The bail before the trial Court.
- IV. The Applicant shall not tamper with prosecution witnesses.
- V. Needless to mention that the observations made in the present order are *prima-facie* in nature and learned Judge who shall be conducting trial, shall not get himself influenced by the same.
- VI. With these observations, the criminal application is allowed.

[V. M. DESHPANDE, J.]

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