

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1829 OF 2015

Balaji s/o Mahadeo Birajdar

.... APPLICANT

V E R S U S

The State of Maharashtra

.... RESPONDENT

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Mr. B.R.Sontakke Patil, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp.– State.

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CORAM : V.M.DESHPANDE, J.

DATE : 24th APRIL, 2015

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PER COURT :

1. This is an application for grant of bail, by which applicant is seeking his release, since he is arrested in connection with Crime No. 91/2014 registered at police station Murum, Dist. Osmanabad for the offences punishable u/s 302,307,328 read with 34 of the Indian Penal Code.

2. Heard Mr. B.R.Sontakke Patil, learned counsel for the applicant and Mr. A.S.Shinde, learned A.P.P. for respondent – State.

3. Investigating agency has completed its entire investigation and charge sheet is filed before the Court of law.

4. F.I.R. is registered on the basis of statement of Pralhad Dhondiba Birajdar when he was admitted in hospital. His statement was recorded on 10/09/2014. According to his statement, in the early morning hours on 10/09/2014 when Pralhad was retuning to his house after answering nature's call, that time his wife Chandrakalabai, present applicant and one Mahadeo Birajdar came there. Present applicant and Mahadeo caught hold the hands of Pralhad and Chandrakalabai administered poison to Pralhad. Postmortem report shows that, according to Doctor, death is due to cardiorespiratory arrest due to poisoning. However, viscera was preserved. Postmortem report shows that the contents of stomach, kidney, spleen, etc. were sent to Chemical Analyser. Chemical Analyser's report is available on record. It is dated 09/12/2014. Result of the analysis shows that general and chemical test does not reveal any poison in the viscera.

5. Learned A.P.P. submitted that the bail application of the co-accused was not considered favourably by this Court. By order dated 17/02/2015, it was directed to the trial Court to dispose of the trial within a period of three months from the receipt of the order. Till today, after expiry of two and half months, according to the learned counsel for the applicant, upon instructions, no charge is framed. Therefore, merely because applications of other co-accused were not considered favourably, that does not debar the consideration of bail application of present applicant, especially when after the receipt of C.A. report, it is absolutely clear that the viscera does not contain any poisonous substance. In that view of the

matter, present applicant is entitled to be released on bail.

6. Hence, I pass the following order :

(i) Present Criminal Application is hereby allowed.

(ii) Applicant Balaji s/o Mahadeo Birajdar be released on bail in connection with Crime No. 91/2014 registered at police station Murum, Dist. Osmanabad for the offences punishable u/s 302,307,328 read with 34 of the Indian Penal Code on he executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] with one solvent surety of like amount. Bail before the trial Court.

(iii) Applicant shall attend police station Murum, Dist. Osmanabad once a week i.e. on every Sunday in between 10.00 a.m. and 12.00 noon till the trial is over.

(iv) Present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]