

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

CRIMINAL APPLICATION NO. 2415 OF 2015

Iqbal s/o Janu Pathan

.... **APPLICANT**

V E R S U S

The State of Maharashtra

.... **RESPONDENT**

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Mr. S.S.Wagh, Advocate for Applicant.

Mrs. S.G.Chincholkar, A.P.P. for Resp. – State.

Mr. A.D.Aghav, Advocate for first informant.

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CORAM : V.M.DESHPANDE, J.

DATE : 18th JUNE, 2015

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PER COURT :

1. This is an application for grant of pre-arrest bail since the applicant is apprehending his arrest in connection with Crime No. 13/2015 registered with Amalner police station, Dist. Beed for the offences punishable u/s 302,306,201 read with 34 of the Indian Penal Code.

2. Heard Mr. S.S.Wagh, learned counsel for the applicant, Mrs. S.G.Chincholkar, learned A.P.P. for respondent – State Mr. A.D.Aghav, learned counsel for first informant.

3. Yogiraj is deceased. He was found to be dead on 18/02/2014. Mangal is his widow. Accidental death

proceedings u/s 174 of Code of Criminal Procedure was registered with police station after the receipt of the intimation of death of Yogiraj in suspicious condition. Said proceedings were registered as accidental death proceedings No. 2/2014. During the course of enquiry about the said death, statements were recorded by the Investigating Officer. Statement of Mangal and her father-in-law Dhuraji were recorded. Their statements would reveal that deceased was habituated to heavy drinking and in spite of all the attempts made by Mangal, it appears that he could not improve himself and continued his habit of said vice. Said statement would reveal that due to the heavy drinking only, according to Mangal and her father-in-law, death of Yogiraj must have been occurred.

Kusum Raosaheb Sonawane, who has no concern whatsoever with the family of the deceased or the present applicant, was also examined by the Investigating Officer in the said enquiry. Her statement was also recorded.

4. The course of events has taken turn after filing private complaint by widow in the Court of the Judicial Magistrate First Class u/s 156 (3) of the Code of Criminal Procedure. Said proceedings were registered as Criminal Application No. 46/2015. Learned J.M.F.C., Patoda, Dist. Beed on 24/02/2015 directed the Police Station Officer to register the F.I.R. In pursuance to the said order, F.I.R. No. 13/2015 was registered.

5. In the complaint, an altogether new fact was

disclosed by the complainant to the effect that the present applicant has removed one chit from the pocket of the deceased. It appears that the learned trial Court, before whom the application for anticipatory bail was filed by the present applicant, has weighed heavily while rejecting the application for bail filed by the present applicant.

6. Learned A.P.P. pointed from the investigation papers that even after the registration of the F.I.R. against the present applicant and another, statement of Kusum was also recorded. Even in that particular statement, it has been specifically stated by her that at the relevant time when she had been near to Yogiraj, in the company of his widow, that time two liquor bottles were found in his pocket, out of that one bottle was completely empty and the other was having liquor. She also stated that except that, nothing was found in the pocket of the deceased. Her statement would reveal that, that time, Bhanudas, Vishnu and Adinath were there. However, she is very specific that at the particular time, present applicant was not present.

7. In that view of the matter, prima facie, the allegations made in the complaint appears to be interested version. Postmortem report also shows that the cause of death is due to acute alcoholic intoxication. Hence, applicant should not be under the fear of arrest. That leads me to pass the following order :

- (i) Present Criminal Application is hereby allowed.
- (ii) In the event of arrest, in connection with Crime No. 13/2015 registered with Amalner police station, Dist. Beed for the offences punishable u/s 302,306,201 read with 34 of the Indian Penal Code, applicant Iqbal s/o Janu Pathan be released on anticipatory bail on he executing P.R. Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] with two solvent sureties of like amount.
- (iii) Present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]