

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

CRIMINAL APPLICATION NO. 2806 OF 2015.

**EKNATH @ EKKKA GULAB AADE.
VERSUS
THE STATE OF MAHARASHTRA.**

Appearance =>

Mr. Sudarshan J. Salunke, Advocate for the Applicant.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 26th June, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No.14/2015 registered with Police Station, Dharur, District – Beed for the offence punishable under Section/s 302, 354(D) read with 34 of the Indian Penal Code and under Section 8 of the Protection of Children from the Sexual Offences Act, 2012.

[2] Heard Mr. Sudarshan J. Salunke, learned counsel for the Applicant and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the State of Maharashtra.

[3] Investigation agency has already completed the entire investigation and charge sheet is already filed in the court of law. Deceased is Priyanka. The charge sheet reveals that on 26th February, 2015 Namdeo Revaji Aade (father of deceased) and grand father of deceased intimated to

the Police Station about the death of Priyanka. According to the said intimation, dead body of Priyanka was found floating in the well situated in the agricultural field.

On the basis of said intimation, A.D. No.57/2015 was registered with Police Station. In the enquiry of the said, spot panchnama was drawn. Spot panchnama commenced at 9.45 a.m. and it was completed till 10.30 a.m. Spot panchnama shows about the presence of the present First Informant. Thus, it is crystal clear that the spot panchnama was drawn in the presence of first informant. It appears from the charge sheet that during the time of enquiry of Accidental Death, nothing was revealed by the first informant to the Police.

[4] First Information Report though lodged on 26th February, 2015 itself, however, it is lodged at 18/32 hrs. In the present case, there is no eye witness account. Entire prosecution case, if it is taken in its face value, it would reveals that present Applicant was seen lastly in the company of the deceased. That will be one of the factor while deciding as to whether the Applicant has committed the Crime or not however, that cannot be a sole factor for deciding the culpability of the Applicant.

[5] There is no explanation, at least prima facie, available in the prosecution case as to why the father, First Informant failed to disclose the fact that his daughter is killed by the present Applicant.

[6] The investigation is over. The Applicant is in jail since 5th March, 2015. Case of the prosecution is based only on circumstantial evidence. In that view of the matter, further custodial presence of the present Applicant is not warranted. That leads me to pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) Applicant - EKNATH @ EKKA GULAB AADE shall be released on regular bail on he executing P.R. Bond of Rs. 25,000/- [Rs. Twenty Five Thousand.] with two solvent sureties in the like amount, in connection with CR No.14/2015 registered with Police Station, Dharur, District – Beed for the offence punishable under Section/s 302, 354(D) read with 34 of the Indian Penal Code and under Section 8 of the Protection of Children from the Sexual Offences Act, 2012.

(iii) Bail before trial court.

(iv) The Applicant shall not tamper with the prosecution evidence nor he shall in any way, try to contact the first informant or any other prosecution witness.

(v) The Applicant shall attend the Police Station, Dharur, District – Beed once in a week, preferably on every Sunday and shall remain present in the said Police Station between 3.00 p.m. to 5.00 p.m., till trial is over.

(vi) Observations made in this order are purely prima facie in nature and the learned Judge of the court below, who shall be ultimately in command with the Sessions Case shall not get himself influence by the observations made in this order.

(vii) With this Criminal Application is allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)