

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

**CRIMINAL APPLICATION NO. 3095 OF 2015**

Ananta @ Anil Sudamrao Kale  
Age : 29 years, Occu.: Agriculture,  
R/o. Erandeshwar, Taluka - Purna,  
Dist. Parbhani  
At present in Jail / Custody .. Applicant  
(Orig. Accused)

**Vs.**

The State of Maharashtra  
Through Police Station Officer,  
Police Station, Purna,  
Taluka-Purna, Dist. Parbhani .. Respondent

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Mr. Swapnil S. Rathi, Advocate for the applicant  
Mr. V.P. Kadam, A.P.P. for the respondent-State

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**CORAM : M.T. JOSHI, J.**

**DATED : 23/07/2015**

**ORAL ORDER :**

. Heard both sides.

2. The present applicant, who is arrested by Purna Police Station, Tq. Purna, Dist. Parbhani in Crime no. 107 of 2014 for the offences punishable under section 302, 498-A, 201, 120-B, 109, 118 of the Indian Penal Code, is praying for his release on bail.

3. The prosecution case would show that on 30/5/2014, wife of the present applicant, namely, Radha went missing. According to the complainant-Investigating Officer, he had received a secrete information that in-fact, said Radha was done to death by the present applicant in furtherance of the common intention with seven other co-accused including the brother and maternal uncle of the deceased. According to the Investigating Officer, the reason for causing death of the deceased and, thereafter, cremating her was the extra-marital relations of the present applicant - Ananta with one married lady i.e. accused no.8 - Rekha and, therefore, the offence came to be registered.

4. The material collected is the alleged statement made by the present applicant leading to the recovery of some ash from a riverbed and the extra-judicial confession, stated to have been made after three months of the incident by one witness.

5. Mr. Rathi points towards the fact that according to the prosecution, not only the present applicant and his relatives have allegedly joined in killing the deceased and cremating her, even brother and maternal uncle of the deceased have joined in the same and they are the co-accused. He further points towards the statement of Baburao Bhalerao i.e. father of Radha (who is deceased according to the prosecution), which would show that the applicant was married with Radha 10 years ago and after some years of the marriage, since there were quarrels between the couple, both of them attempted to commit suicide i.e. the present applicant consumed poison and Radha jumped in a well. In all these facts, he submits that the applicant be released on bail.

6. Learned A.P.P. however opposed the application. He submits that since 30/5/2014, there is no trace of Radha. The extra-judicial confession alongwith the recovery of the ash would show that

in-fact, the deceased was killed and, thereafter, was cremated. He therefore opposed the application.

7. Earlier application of the present applicant bearing Criminal Application No.5980 of 2014 was allowed to be withdrawn by this Court vide order dated 25/11/2014 with liberty to file similar application after a period of six (6) months. Hence, the present application is filed.

8. In the circumstances, the report from the concerned Sessions Court was called. It would show that after committal of the case on 01/10/2014, the Investigating Officer is not responding to various letters sent for deposit of the Muddemal property and, therefore, even the charge could not be framed.

9. Considering all the material on record that the case is based on circumstantial evidence, in the background of the facts of the case, as argued by Mr. Rathi, and finding that the Investigating Officer is not co-operating in the early hearing of

Sessions trial of the undertrial prisoner, in my view, the applicant can very well be released on bail.

10. At the same time, it is hereby observed that the Sessions Court is not handicapped, if the Investigating Officer does not respond. Even warrant can be issued for filing of the property and the concerned Investigating Officer can be hauled for contempt of the Court. With these observations, the following order:-

11. Criminal Application is allowed.

12. The applicant be released on bail in Crime no. 107 of 2014 registered with Purna Police Station, Tq. Purna, Dist. Parbhani for the offences punishable under section 302, 498-A, 201, 120-B, 109, 118 of the Indian Penal Code, upon his executing P.R. bond in the sum of Rs.30,000/- (Rs. Thirty Thousand) and also upon furnishing surety in the like amount.

13. The applicant shall not enter village Erandeshwar, Taluka-Purna, Dist. Parbhani for a period of two (2) years or till the trial is over, whichever occurs earlier, except without the prior permission from the Sessions Court.

14. The applicant shall not in any way attempt to influence any of the prosecution witnesses in any manner.

15. Copy of the present order be sent to the concerned Sessions Court.

16. Application stands disposed of accordingly.

Sd/-  
**[M.T. JOSHI]**  
**JUDGE**

arp/-