

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

**CRIMINAL APPLICATION NO. 3097 OF 2015**

Kiran Nanabhau Dushing

**.... APPLICANT**

**V E R S U S**

The State of Maharashtra

**.... RESPONDENT**

.....

Mr. R.K.Temkar, Advocate for Applicant.

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

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**CORAM : V.M.DESHPANDE, J.**

**DATE : 3<sup>rd</sup> JULY, 2015**

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**PER COURT :**

1. This is an application for bail. Applicant is arrested in connection with Crime No. 178/2013 registered with Sangamner Taluka Police Station, Dist. Ahmednagar for the offence punishable u/s 302 read with 34 of the Indian Penal Code.

2. Heard Mr. R.K.Temkar, learned Counsel for the applicant and Mrs. S.G.Chincholkar, learned A.P.P. for the respondent – State.

3. Deceased is Bhausaheb. F.I.R. is lodged by Dagdu

Laxman Gavande, who is the father of the deceased. Present applicant is step brother of Manjusha, wife of the deceased. According to F.I.R., on 28/10/2013, marriage of deceased was performed with Manjusha. On 01/11/2013, at the house of first informant at Pokhari Haveli, there was ceremony of "Satyanarayan Pooja". That time, present applicant along with his friend Sagar came and attended the said ceremony. According to F.I.R., prior to taking meals, they asked deceased that they shall go to orchard and thereafter they left the place. At 10.00 p.m., according to the F.I.R., first informant received telephonic call from the present applicant that the applicant has reached to Rahuri, where he has left the deceased near to the house of the first informant. However, on 01/11/2013, Bhausahab failed to return to his house. F.I.R. further states that on 02/11/2013, cousin of first informant namely Shantaram disclosed that he saw Bhausahab in the company of the present applicant on motorcycle. The dead body of Bhausahab was found floating in the percolation tank on 02/11/2013 at 4.00 p.m. F.I.R. itself shows that the present applicant was present at the time of funeral. F.I.R. is lodged on 04/11/2013. Thus, the F.I.R. is lodged after two days. According to F.I.R., present applicant is having illicit relation with his step sister, who is widow of the deceased and, therefore, according to the F.I.R., present applicant is responsible for the death of deceased.

4. Investigating agency has already completed its investigation. Charge sheet is filed. From the entire charge sheet, the only material against the applicant is the 'last seen'

theory. It is not the incriminating circumstance when it is not supported by other supporting evidence. In so far as illicit relation between present applicant and his step sister is concerned, except statement of the first informant, there are no independent witnesses.

5. Mr. R.K.Temkar, learned counsel for the applicant submitted that though the Session Trial is of the year 2013, Charge is not framed till today. Statement is accepted.

6. Hence, I pass the following order :

- (i) present Criminal Application is allowed.
- (ii) Applicant Kiran Nanabhau Dushing be released on bail in connection with Crime No. 178/2013 registered with Sangamner Taluka Police Station, Dist. Ahmednagar for the offence punishable u/s 302 read with 34 of the Indian Penal Code on he executing P.R. Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] with one solvent surety of like amount. Bail before the trial Court.
- (iii) Applicant shall attend Sangamner Taluka Police Station once in a fortnight, preferably on every Sunday in between 3.00 – 5.00 p.m. till the trial is over.

(iv) With these observations, present Criminal Application is disposed of.

**[V.M.DESHPANDE, J.]**

KNP/Cr.Apln. 3097.2015