

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

CRIMINAL APPLICATION NO. 3208 OF 2015.

VIKAR AHMED S/O NAWAB JANI.

VERSUS

THE STATE OF MAHARASHTRA.

Appearance =>

Mr. Ganesh Shinde, Advocate for the Applicant.

Mrs. S.G. Chincholkar, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 16th July, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No.I 63/2014 registered with Police Station, Mahur, Taluka – Mahur, District - Nanded for the offences punishable under Section/s 302, 109, 120(B), 211, 201 read with 34 of the Indian Penal Code.

[2] Heard Mr. Ganesh Shinde, learned counsel for the Applicant and Mrs. S.G. Chincholkar, learned Additional Public Prosecutor for the State.

[3] The Applicant, who in fact has lodged the First Information Report and on whose report, Crime No.63/14 is registered with Police Station, Mahur, Taluka – Mahur, District –

Nanded was subsequently arrested on 5th November, 2014. The Applicant is cousin of deceased Nilophar.

[4] Mr. Ganesh Shinde, learned counsel for the Applicant submitted that, only material available against the present Applicant in the entire charge sheet is C.D.R. report in respect of telephonic talk between him and Khalid Beg, who is father of deceased, between village Fulsangavi, Taluka – Mahagaon, District – Yeowatmal to Pusad. He further submitted that this court has already released the other accused on bail against whom CDR report was the material.

[5] Mrs. S.G. Chincholkar, learned Additional Public Prosecutor has fairly submitted that, except CDR report, there is no incriminating material against the present Applicant. In so far as CDR report is concerned, it is from village Fulsangavi to Pusad. The talk between the Applicant and Khalid is there. It is also not disputed by the learned Additional Public Prosecutor that ordinary place of residence of Applicant is Fulsangavi, Taluka – Mahagaon, District – Yeowatmal; where-as ordinary place of resident of Khalid is Pusad. Telephonic talk between nephew and uncle, from their ordinary place of residence, cannot be held, at least prima facie, incriminating material.

[6] Looking to the fact that, there is no eye witness account and entire case is based on circumstantial evidence and as this court has already exercised its discretion against whom there is C.D.R. Report, I see no reason to deviate from my said view. That leads me to pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant - VIKAR AHMED S/O NAWAB JANI shall be released on regular bail on he executing P.R. Bond of Rs. 30,000/- [Rs. Thirty Thousand.] with two solvent sureties in the like amount, in connection with CR No.I 63/2014 registered with Police Station, Mahur, Taluka – Mahur, District - Nanded for the offences punishable under Section/s 302, 109, 120(B), 211, 201 read with 34 of the Indian Penal Code.
- (ii) Bail before trial court.
- (iii) The Applicant shall attend the Police Station, Mahur, Taluka – Mahur, District - Nanded once in a fortnight preferably on every Monday, between 2.00 p.m. to 5.00 p.m, till charge is framed.
- (iv) With this Criminal Application is allowed and same is disposed of, accordingly.
- (v) Parties to act upon authenticated copy of this order.

(V.M. DESHPANDE, J.)