

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

CRIMINAL APPLICATION NO. 3918 OF 2015.

SYED KAYYUM S/O SYED MUNIR.

VERSUS

THE STATE OF MAHARASHTRA.

Appearance =>

Mr. T.A. Quadri, Advocate h/for Mr. Zia Ul Mustafa, Advocate
for the Applicant.

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

CORAM : V.M. Deshpande, J.

DATE : 13th August, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No. I 172/2014 registered with Police Station, Jinsi, Aurangabad, District – Aurangabad for the offences punishable under Section/s. 302, 323 read with 34 of the Indian Penal Code.

[2] Heard Mr. T.A. Quadri, learned counsel for the Applicant and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the State of Maharashtra.

[3] Alongwith present Applicant, three other persons were arrested. They are released on bail.

Investigation is over. Charge sheet is already filed before the court of law. Deceased is one Sachin. According to the prosecution case, the Applicant alongwith other co-accused beat deceased with fist and kick blows. Post Mortem report shows that, deceased has suffered :-

- (i) one linear abrasion of size 4.5 cm x 0.2 cm present over right part of neck, 6 cm from medial end of clavicle, 8 cm from right angle of mandible.
- (ii) Abrasion of size 0.5 cm x 0.3 cm presents 2 cm below right aspect of medial end of clavicle.
- (iii) Abrasion of size 0.5 cm x 0.1 cm presents 2 cm below injury No.2.

According to the medical opinion, death has occurred due to "Asphyxia due to aspiration of food material up to lungs with evidence of abrasion over neck"

[4] This court (Coram : M.T. Joshi, J.) by order dated 16th April, 2015 passed in Criminal Application No.1409/2015 has already released Syed Munir s/o Syed Sandu on bail after considering the case of death and fact that role ascribed is only kick and fist blows.

[5] Mrs. Pratibha Bharad, learned Addl. Public Prosecutor has fairly submitted that role ascribed to the present Applicant is similar to the accused, who is already released on bail. Further the investigation is already over. Charge sheet is already filed in the court of law, therefore, further custodial presence of present Applicant is not necessary. That leads me to pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant - SYED KAYYUM S/O SYED MUNIR shall be released on regular bail on he executing P.R. Bond of Rs. 25,000/- [Rs. Twenty Five Thousand.] with one solvent surety in the like amount, in connection with CR No.I-172/2014 registered with Police Station, Jinsi, Aurangabad, District–Aurangabad for the offences punishable under Section/s. 302, 323 read with 34 of the Indian Penal Code.
- (iii) Bail before trial court.
- (iv) The Applicant shall not enter the territorial limits of Aurangabad Municipal corporation for a period of three (3) years or till the trial is concluded, whichever occurs earlier, without the prior permission from the concerned Sessions Case, except for attending the present Sessions Case.
- (v) The Applicant shall not attempt to influence any of the prosecution witnesses in any manner.
- (vi) With this Criminal Application is allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)