

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4037 OF 2015

Parbhat @ Prabhu s/o Damu Gaikwad ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr A.S. Shejwal, Advocate for applicant;
Mr R.P. Phatke, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 20th August, 2015

ORAL ORDER :

Pursuant to first information report dated 16th January, 2015 and the supplementary statement dated 21st January, 2015, the applicant came to be arrested in connection with C.R. No.06 of 2015, registered with police station, Phulambri, District Aurangabad, for offence punishable under sections 302 and 363 of the Indian Penal Code.

2. It is the contention of the applicant that Deepak, son of the complainant, was not traceable since 15th May, 2015 and his body was discovered on 21st January, 2015, in the well belonging to one Shaikh Musa. The complainant has narrated in his supplementary statement that the present applicant, who is addicted to liquor, had threatened wife of complainant, Anita on 14th January, 2015, as she had refused to provide

food to the applicant. Apart from the above accusations, according to the applicant, there is no iota of evidence to connect him with death/murder of Deepak.

3. Mr R.P. Phatke, learned Addl. Public Prosecutor has opposed the application on the ground that pursuant to the supplementary statement dated 21st January, 2015, it has been brought on record that the applicant had threatened the wife of the complainant Ramesh on 14th January, 2015 as she had refused to provide him food, which fact was witnessed by her husband's aunt, namely, Mamata. In statement dated 21st January, 2015, Mamata, aunt of complainant has stated about threat given by the applicant-accused to Anita.

4. With the assistance of the learned Counsel for the applicant and the learned Addl. Public Prosecutor, I have perused the charge-sheet in the matter. Investigation in the matter is complete. Perusal of the investigation papers do not reflect that the deceased Deepak was last seen in the company of the present applicant and there is no such evidence noticed during the investigation. Apart from above, the theory of threat to Anita was reported after about five days. The threat by the accused, in my opinion, cannot be stretched to the extent of crime in question, in absence of evidence to that effect.

5. In view of the fact that there is no *prima facie* material available against the applicant, in my opinion, it will be appropriate to release him on bail. Thus, I pass following order :-

Criminal Application stands allowed.

The applicant Parbhat @ Prabhu s/o Damu Gaikwad, be released on bail, in connection with C.R. No.06 of 2015, registered with police station, Phulambri, District Aurangabad, for offence punishable under sections 302 and 363 of the Indian Penal Code, on furnishing P.R. Bond of Rs.10,000/- with one surety of like amount, on condition that he shall not enter the jurisdiction of police station, Phulambri, District Aurangabad, till conclusion of the trial.

(N.W. SAMBRE, J.)

amj