

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4047 OF 2015

Mahesh s/o. Jairam Parkale,
Age 35 years, occ.Household,
r/o. Varad, Tq. Chopda,
Dist. Jalgaon ..Applicant

Versus

The State of Maharashtra,
Through P.S.O., P.S. Chopda
City Police Station,
Aurangabad ..Respondent

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Mr.Rupesh Jaiswal, advocate for applicant

Mr.P.N.Mule, A.P.P. for respondent - State

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CORAM : M.T. JOSHI, J.
RESERVED ON : AUGUST 19, 2015
PRONOUNCED ON : AUGUST 24, 2015

PER COURT :

Heard both sides.

2] Present applicant, who is arrested in Crime
No.68 of 2014 registered with Chopda City Police
Station, Dist.Jalgaon, for the offence punishable

under Section 302 of Indian Penal Code, is praying for his release on bail.

3] The earlier application of the applicant for similar relief, bearing Criminal Application No.5796 of 2014 was dismissed by this Court on 17th November, 2014 with a direction to learned Sessions Judge to expedite hearing of the sessions case.

4] The report of the concerned Sessions Court dated 3rd August, 2015, would show that time and again, the advocate for the present applicant/accused filed applications or remained absent on the fixed date of hearing. The earlier advocate for the applicant/accused had filed no instructions purshis and thereafter, the second advocate also remained absent on the next date.

5] The allegations against the applicant/accused are that as deceased – Vilas had refused to give an amount of Rs.20/- to present applicant for the purpose of purchasing wine, the applicant strangled deceased – Vilas causing his death.

6] Learned counsel for the applicant Mr.Jaiswal, submitted that one important factor, that the case may not come within the definition of 'murder' was not argued earlier. The prosecution case would show that merely out of quarrel, the incident has occurred. The father of applicant is suffering from decease. He, therefore, submitted that the application may be allowed.

7] Learned A.P.P. opposed the application.

8] The prosecution allegations would show that in a broad day light, the incident has occurred. The issue as to whether, it would be a case of

culpable homicide or murder, need not be decided at this stage. In the circumstances, considering all the facts on record and also finding that the defence counsels are not cooperating the Sessions Court in trial, in my view, this is not a fit case for releasing the applicant on bail.

9] Present application is, therefore, rejected.

[M.T. JOSHI, J.]

kbp