

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4313 OF 2015

Kiran s/o. David Kolge

....Applicant

Versus

The State of Maharashtra

....Respondent.

Mr. N.L. Choudhari, Advocate for applicant.

Mr. P.N. Muley, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 9th September, 2015.

ORDER :

1. The application is filed for bail. Both the sides are heard. In the past, this Court had refused to grant bail to the present applicant and so, the applicant is expected to show that there has been change in circumstances.

2. The learned counsel for applicant produced copy of order of bail made in favour of one Babasaheb s/o. Nana Maghade dated 10.12.2014. The previous application of the present applicant was disposed of on 14.1.2015 and it needs to be presumed that the order made by the other Hon'ble Judge, who granted bail to Babasaheb by order dated 10.12.2014, was considered by this Court while passing order on 14.1.2015. When this Court expressed that this Court was not inclined to grant the

relief of bail, the previous application was withdrawn and direction was given to dispose of the matter expeditiously. Liberty was given to come to this Court again after six months. Submission was made that even after six months, the case is not disposed of and on that ground, applicant is entitled to get the bail.

3. Chargesheet is filed against the present applicant and others for the offences punishable under sections 302, 326, 307 etc. r/w. 149 of I.P.C. and few sections of Arms Act. There are allegations that present applicant and his associates assaulted the deceased by using dangerous weapons including pistol. Adesh, brother of the first informant, died on the spot due to use of fire arm against him. There are allegations against the present applicant that he was holding weapon like Gupti. The P.M. report shows that many injuries were found on the dead body. Eye witnesses like Deelip and Chaya were injured in the incident.

4. The learned counsel for the applicant submitted that in the statements given to police, injured witnesses Deelip and Chaya have not taken specific name of the present applicant to show his involvement in the incident which took place after 11.00 p.m. He submitted that his presence was noted in respect of incident which had taken place at about 7.00 p.m. on the

same day. Though specifically name of the present applicant was not taken in the second incident, there was mention that there were other persons also. Supplementary statements were given by these persons and in the supplementary statements, they have stated that this accused played active role in the main incident. The statements of other witnesses were recorded immediately and they are Piru and Manoj. These two witnesses and first informant gave name of the applicant in their statements given immediately. Thus, there are eye witnesses and there are two injured witnesses. The murder took place when many persons were watching the incident, but nobody intervened except the close relatives of the deceased. In view of these circumstances, this Court holds that there is possibility of tampering the prosecution witnesses. The weapon like Gupti was recovered from the applicant. In view of the fact that section 149 of I.P.C. will be used and the material collected against the applicant, this Court holds that it is not a fit case to grant the relief.

5. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

ssc/