

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4719 OF 2015

Laxman s/o Raosaheb Mapari ..APPLICANT

VERSUS

The State of Mah. & ors. ..RESPONDENTS

Mr A.B. Jagtap, Advocate for applicant;
Mrs B.B. Gunjal, A.P.P. for respondent no.1

CORAM : N.W. SAMBRE, J.

DATE : 8th September, 2015

ORAL ORDER :

By the present application under section 439 (2) of the Code of Criminal Procedure, the applicant-original complainant, seeks cancellation of regular bail granted to respondents no.2 & 3 herein, in connection with C.R. No.I-173 of 2015, registered with Newasa Police station, for offence punishable under section 302 of the Indian Penal Code, by order dated 3rd August, 2015, passed by Additional Sessions Judge, Newasa, in Criminal Misc. Application No.138 of 2015.

2. Respondents no.2 & 3 herein were ordered to be released on regular bail by order dated 3rd August, 2015, passed by Additional Sessions Judge, Newasa, in Criminal Misc. Application No.138 of 2015.

3. Learned Counsel appearing on behalf of the applicant-original complainant, while arguing for cancellation of regular bail, would urge that in view of recovery of iron rod from respondent no.3 Haribhau, he ought not to have been released on bail. He would further urge that there is *prima facie* evidence available on record, so as to depict involvement of the accused persons in commission of the crime in question.

4. Learned Addl. Public Prosecutor assisted this Court based on record of the present application and has submitted to the jurisdiction of the Court.

5. Upon perusal of the order granting bail, it is noticed that the learned Additional Sessions Judge, while granting regular bail was alive to the fact of recovery of iron rod from respondent no.3 Haribhau. The learned Additional Sessions Judge, then proceeded to evaluate the nature of injuries caused to the deceased and whether those injuries could be possible by iron rod and has inferred that the injuries caused on the person of the deceased, as mentioned in injury certificate, are hardly possible by iron rod.

6. The learned Additional Sessions Judge also considered tender age of respondent no.2-accused no.1 and has granted regular bail in the matter.

7. In my opinion, the discretion exercised by the learned Additional Sessions Judge in granting regular bail, particularly in the background of reasons stated in the order, appears to be just and proper. This Court is alive to the law laid down by the Apex Court, in the matter of **Siddharam Satlingappa Mhetre vs. State of Maharashtra and Others**, reported in **(2011) 1 SCC 694**.

8. In the light of above, the Criminal Application, being sans merit, stands rejected.

(N.W. SAMBRE, J.)

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