

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 5045 OF 2015

Kiran s/o Maroti Dhole

.. APPLICANT

VERSUS

The State of Maharashtra

.. RESPONDENT

Mr. A.D. Hande, advocate for applicant.
Mr. A.R. Kale, APP for the State.

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CORAM : INDIRA K. JAIN, J.

DATE : 26th NOVEMBER, 2015.

ORAL ORDER :

Applicant is involved in Crime No. 56/2014 registered with Bhagyanagar Police Station, Nanded for the offences punishable under sections 302, 201 r/w section 34 of the Indian Penal Code.

2. Heard Mr. Hande, learned counsel for the applicant and Mr. Kale, learned APP for the State. Perused case papers.

3. It is the case of prosecution that on 18.03.2014, while consuming liquor, present applicant alongwith other co-accused, assaulted deceased Nikhil son of complainant Rekha Shankar Dhutade. The role attributed to the applicant is that he gave a blow with dagger on the neck of the Nikhil due to which Nikhil succumbed to injuries and died. According to prosecution, deceased and the applicant were on enmical terms and so, applicant committed his murder.

4. Learned counsel for applicant vehemently submitted that two-fold stories have been put forth by the prosecution which makes prima facie involvement of applicant doubtful in the alleged commission of murder of Nikhil. Learned counsel refers to the First Information Report lodged by Rekha on 22.03.2014 wherein it is stated that her son Nikhil was in habit of committing thefts and she suspects that his companions might have committed murder of Nikhil.

5. Supplementary statement of complainant was recorded on 18.04.2014 after about a month, in which, for the first time she disclosed name of present applicant as an assailant.

6. Prosecution is relying upon the statement of Aniket Mahabale recorded on 23.04.2014 and Sachin Dhole, real brother of accused, on 26.04.2014. On the basis of statements of these witnesses, it is submitted by learned APP that applicant is involved in serious crime and prayer to release him on bail be rejected.

7. With the assistance of learned counsel for the parties, this Court has gone through the statement of witnesses, post mortem report, seizure panchanama and CA report. On perusal of post mortem report, it can be seen that the injuries mentioned in column no. 17 were the post-mortem injuries. At this stage there is no evidence to show that the injuries caused to the deceased were anti-mortem injuries. Considering post mortem report and two fold stories put forth by the complainant, this Court finds prima

facie involvement of applicant in commission of alleged murder of Nikhil as doubtful.

8. In the light of the above, application deserves to be allowed. Hence the following order :

- i. Criminal Application No. 5045/2015 is allowed.
- ii. Applicant Kiran s/o Maroti Dhole is released on bail on PR and SB of Rs. 20,000/- each.
- iii. He shall not tamper with the prosecution evidence and shall make himself available as and when required.

(INDIRA K. JAIN)
JUDGE

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