

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

CRIMINAL APPLICATION NO. 5049 OF 2015

Mr. Amol Kailas Nikam,
Age: 19 years, Occ: Labour,
R/o. At Dev Pimpri Phata,
Tq. Jamner, Dist. Jalgaon.

...Applicant

versus

The State of Maharashtra,
through Police Inspector,
Police Station Jamner,
Tq. Jamner, Dist. Jalgaon/

...Respondent

...
Mr. Sayyed Tauseef Yaseen, Advocate for the applicant
Mrs. M.A. Deshpande, Addl. Public Prosecutor for respondent
...

CORAM : N.W. SAMBRE, J.

DATE : 12th OCTOBER, 2015

ORAL ORDER :

The present applicant is seeking regular bail in Crime No. 72/2015 registered with Jamner Police Station, District Jalgaon for an offence punishable under Sections 302, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, pursuant to the First Information Report dated 01/05/2015 lodged by one Bhaskar Sadashiv Wagh, wherein he has alleged that the applicant alongwith his brother, father and other relatives assaulted and murdered his brother Madhukar.

2. The investigation in the matter is complete and the charge sheet is already filed.

3. Learned Counsel for the applicant, while making out a case for regular bail, would urge that the applicant is falsely implicated in the crime in question as though noted in the F.I.R. there is attribution about the use of stick by the applicant for commission of crime in question, however, there are no corresponding injuries on the body of the deceased Madhukar were noticed. So as to substantiate the said contention, he has relied upon the post mortem report and final cause of death certified by the Doctor.

4. While opposing the bail application, learned A.P.P. would urge that the inquest panchnama coupled with statement of eye witnesses rather depicts that the applicant was instrumental in assaulting the deceased Madhukar. According to her, the contradictions in post mortem report, final cause of death certified by the Doctor with that of statement of eye witnesses and inquest could be the matter which can be appreciated in the trial and this Court should not exercise its discretion in favour of the applicant, particularly in the light of statement of the eye witnesses.

5. Having perused the charge sheet, it is required to be noted that though some of the witnesses namely Devkabai and

Bhagwat have stated about assault on Madhukar by the applicant with the help of stick, however, if the said statements are compared with that of post mortem report, it reflects that no surface wounds or injuries were noticed on the body of the deceased Madhukar. It is in clear terms stated in the post mortem report that no external injuries were seen. Apart from above, final cause of death certified by the Medical Officer is, death due to CRA due to acute myocardial infarction which in any way cannot be relied to alleged assault.

6. In view thereof, it will be appropriate, in my opinion, to order the release of the applicant on bail. Hence, I propose to pass the following order :-

The applicant be released on bail, upon executing the P.R. bond of Rs.15,000/- (Rs. Fifteen thousand) with one surety in the like amount, in connection with Crime No. 72/2015 registered with Jamner Police Station, District Jalgaon for an offence punishable under Sections 302, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.

7. The application stands allowed.

[N.W. SAMBRE, J.]