

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

CRIMINAL APPLICATION NO.5134 OF 2015

Vaijanath s/o Bapurao Gite,
Age 24 years, Occu. Agri.,
R/o Somthana, Taluka Kandhar,
District Nanded

..Applicant

Versus

The State of Maharashtra
through Kandhar Police Station,
Taluka Kandhar, Dist. Nanded

..Respondent

Mr S.T. Veer, Advocate for applicant
Mr A.P. Basarkar, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 23rd October 2015

PER COURT

Heard.

2. The applicant is seeking regular bail in Crime No.19 of 2015 registered on 3rd May 2015 at Kandhar Police Station, District Nanded, for offences punishable under Sections 364, 365, 377, 302, 201, 120-B, 504 read with sec.34 of Indian Penal Code and under Section 3 (2) (5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The prosecution case is that the applicant herein, in connivance with other six accused persons has committed the offence resulting into death of one Santosh.

4. Mr Veer, learned Counsel for the applicant, while making out the case for grant of regular bail would urge that the applicant was

arrested about six months back, i.e. on 14th April 2015 and since then he is behind the bars. He would urge that the investigation in the matter is complete and there is no necessity to detain the applicant further. He would urge that the entire case is based on circumstantial evidence and even if the evidence, as is brought on record by the investigating agency is taken to be correct at its face value against the present applicant, there is hardly any material to connect the present applicant to the crime in question. So as to substantiate his contention, he has taken me through the statement of Deelip and another statement of Haridas, so as to urge that the prosecution case has made lot of improvement from the date of registration of crime. According to him, mere presence of the applicant, as is narrated in the investigation papers cannot be taken to be against the applicant, as applicant has no intention to involve himself in the crime in question.

5. While opposing the application, learned Addl. Public Prosecutor has invited attention of this Court to the entire investigation papers and would urge that the involvement of the applicant in the crime in question is apparent. He has taken me through the statement recorded under Section 164 of the Cr.P.C. of accused persons, wherein specific role is attributed to the applicant in commission of the crime. Apart from above, according to him, even if the case is based on circumstantial evidence, still there is sufficient material available on record to connect the applicant to the crime in question. He submits that the application is liable to be rejected.

6. With the assistance, I have perused the case papers. It is required to be noted here that the presence of the applicant in categorical terms has been established in the statement of the witnesses to the incident. The nature of offence as has been alleged against the applicant and the investigation papers though speaks of indirect involvement of the applicant, however, presence of the applicant at the time of commission of crime is apparent from the statement of the witnesses, particularly, the statement of witness Haridas. It is also required to be noted that applicant herein appears to have been acted in aid of the main accused, who has committed the crime. So far as the release of other accused persons viz. Keshav, Madhav and Ananda is concerned, the role attributed to said co-accused is not at par with that of present applicant. The said co-accused, in fact, have left the spot and their involvement was only to the extent of providing some material to the main accused, whereas the present applicant has actively participated to certain extent in the commission of crime in question.

7. In view thereof, in my opinion, no case for grant of bail is made out. Criminal Application fails, stands rejected.

(N.W. SAMBRE, J.)

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