

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 5221 OF 2015

NARHARI S/O PANDURANG SONWANE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Satej S. Jadhav.

APP for Respondent : Mr. S. J. Salgare.

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CORAM : **INDIRA K. JAIN, J.**

DATE : 20th November, 2015.

ORDER :

. Heard learned counsel for the parties.

2 Perused case papers.

3 Applicant is involved in Crime No. I-38 of 2015 registered with Loni Police Station, Taluka Rahata, District Ahmednagar for the offences punishable under Sections 302 read with 34 of the Indian Penal Code.

4 Prosecution case in brief is as under:

- I. On 23rd February, 2015 at around 05:00 am, dead body of Ramnath Jijaba Dighe was found in the field of Hanumanta Yeshwant Garde at Mamdapur Shivar, Taluka Rahata. Field owner informed the Police Station accordingly. A.D. No.12 of 2015 was registered. *In-quest* panchanama was drawn. Dead body was sent for postmortem.
- II. Shankar Dighe is the brother of deceased Ramnath. He had been to hospital and saw dead body. He noticed injuries. He then lodged report with Police Station on the basis of which above said crime came to be registered.
- III. Applicant was arrested on 24th February, 2015. Other two Accused Harichand Manikrao Bandewar and Shital Ramnath Dighe have been enlarged on bail by this Court vide order dated 24th August, 2015 in Criminal Application Nos.4193 and 4156 of 2015.

5 Prosecution case is based on circumstantial evidence viz—

- i. Last seen
- ii. Confessional statement of Accused and
- iii. Motive

6 In respect to last seen reliance is placed on statement of Uttam Bhagwant Gadakh recorded on 24th February, 2015. It can be seen from his statement that he had not named and identified the Applicant. No test identification parade was held. However prosecution relied upon CCTV footage collected during investigation. In the absence of TIP it is difficult to ascertain identification of Applicant from CCTV footage.

7 In respect to confessional statement of Accused learned APP vehemently contended that on 26th February, 2015 Accused confessed commission of offence before the Police Officer and it would be too early to say that confessional statement is not admissible.

8 Considering the fact that test identification parade is not held, identification of Applicant in CCTV footage is not ascertained and co-Accused Shital against whom the same motive is attributed is enlarged on bail, this Court is inclined to allow the present application.

Hence the following order –

ORDER

- I. Criminal Application No.5221 of 2015 is allowed.
- II. Applicant Narhari s/o Pandurang Sonwane be released on bail in connection with Crime No. I-38 of 2015 registered with Loni Police Station, Taluka Rahata, District Ahmednagar for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code upon furnishing P.R and S.B. of Rs.15,000/- each.
- III. Applicant shall not tamper with the prosecution evidence and shall make himself available as and when required by the Investigating Agency.

[INDIRA K. JAIN, J.]

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