

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

CRIMINAL APPLICATION NO. 5664 OF 2015

Balu s/o Shivram Haibatkar

... Applicant

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr D. B. Shinde, Advocate for applicants
Mr S. M. Ganachari, APP for respondent/State
.....

CORAM : **INDIRA K. JAIN, J.**
DATE : **4TH DECEMBER, 2015.**

PER COURT:

. This is an application for regular bail. Applicant is involved in Crime No. 2 of 2015 registered at Umri Police Station, Dist. Nanded for the offences punishable under Sections 302, 394 of the Indian Penal Code.

2. Heard Mr D. B. Shinde, learned counsel for applicant and Mr S. M. Ganachari, learned APP for respondent/State. Perused papers of investigation.

3. It is the case of prosecution that on 14.01.2015 applicant Balu demanded money from Dropadabai Gangaram Haibatkar grandmother of the informant. On that quarrel took place between applicant and Dropadabai.

4. On the same day at 7:30 pm Datta Shivram Haibatkar informed the police station that his grandmother was found dead in the agricultural land and her earrings were missing. On the basis of report of grandson initially A.D. was registered. Then offence was registered against unknown person.

5. Learned counsel for applicant submits that applicant is not involved in the commission of crime. There is no evidence against him and in the absence of evidence learned counsel prays to enlarge the applicant on bail.

6. The learned APP resisted the application on the ground that applicant had been to the shops of two goldsmiths to sell earrings. He was found in CCTV footage. Learned APP submits that there is an evidence to show that applicant had a quarrel with deceased on money on the same day and thereafter he was found

moving in the vicinity. Based on these circumstances learned APP prays to reject the application.

7. Prosecution case is exclusively based on circumstantial evidence. After arrest applicant was remanded to police custody. Nothing is recovered at his instance. Except statements of witnesses that there was a quarrel between deceased and applicant on money and he was found moving in the vicinity there is no clinching circumstance to connect the applicant with the alleged offence.

8. In the absence of evidence to show *prima facie* involvement of applicant this court finds it fit to exercise judicial discretion.

9. Applicant is in custody since about nine months. He is permanent resident of Gortha, Tq. Umri, Dist. Nanded. There is no likelihood of his fleeing from justice. Hence the following order.

ORDER

- (i) Criminal Application No. 5664 of 2015 is allowed.

- (ii) Applicant Balu s/o Shivram Haibatkar is released on bail in Crime No. 2 of 2015 registered at Umri Police Station, Dist. Nanded for the offences punishable under Sections 302, 394 of the Indian Penal Code on his furnishing PR and SB of Rs. 25,000/- (Rupees Twenty Five Thousand) each.
- (iii) He shall not tamper with the prosecution evidence and shall make himself available as and when required by the Investigating Agency.
- (iv) Bail before the trial Court.

[INDIRA K. JAIN, J.]

sgp