

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6457 OF 2014

Shankar s/o. Chandrakant Gore **Applicant.**

Versus

The State of Maharashtra **Respondent.**

Mr. V.S. Tanwade h/f. Mr. S.P. Landge, Advocate for applicant.

Mrs. M.A. Deshpande, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 6th January, 2015.

ORDER :

1. The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation.

2. Chargesheet is filed against the present applicant and one more accused for offences punishable under section 302, 120-B etc. of I.P.C. Deceased Chandrashekhar Mundhe was brother in law by complainant Sunil. On the day of incident, the deceased had visited the bear bar and permit room of one accused, where other accused and present applicant were working as waiters. Witness Vikram and other witnesses were working as waiters and by chance, witness like Mayur was

present in the vicinity of the permit room.

3. The deceased used to give abuses to owner of permit room, accused No. 1, after having drunk. On that day also, due to the conduct of deceased, the bar owner became angry. The deceased had quarrel with one Bhagwat Deshmukh also in said bear bar and that quarrel was separated by waiters. On the day of incident, after 7.30 p.m. at the instance of present applicant and to help applicant, witness Vikram had gone towards the scrap car parked in the vicinity of the permit room with applicant. There, for the applicant, Vikram had lifted the deceased from the body of car to keep him in correct position on the rear seat of the scrap car. Present applicant, waiter, did not follow Vikram and so Vikram also again went towards the car. He noticed that applicant was pressing the neck, throttling the deceased. Applicant became frightened. On that day, witness like Mayur had overheard the conversation between accused Nos. 1 and 2. In the conversation, accused No. 1 had given instruction to present applicant to finish the deceased as the deceased was harassing him. The death took place due to asphyxia due to throttling and the dead body was recovered from the scrap car. After the arrest of the present applicant and on the basis of his statement given under section 27 of Evidence

Act, mobile hand set of the deceased and also some cash amount of the deceased were recovered from AC room of the permit room. Thus, there is direct and circumstantial evidence as against present applicant and there will be evidence on motive also.

4. The learned counsel for applicant submitted that in the first statement, given by Vikram he had not made specific allegation that he had witnessed the incident of throttling. He also submitted that statement of witness Mayur was recorded very late, after about one month and so, no reliance can be placed on their statements. He submitted that there was virtually no reason for Investigating Officer to record supplementary statement of Vikram, when his statement was recorded under sections 161 and 164 of Cr.P.C.

5. The submissions made by the learned counsel for the applicant cannot be considered at this stage. The aforesaid material is sufficient to make out strong prima facie case for the offence of murder atleast as against present applicant. It was submitted for the applicant that the other accused, bar owner, is granted bail and so, on the ground of parity, present applicant is entitled to get the relief. This submission is not at all acceptable

in view of the nature of material collected as against the present applicant. The witnesses are from the same permit room and there is possibility of tampering with the prosecution witnesses. There is also possibility that he may flee from justice. This Court holds that it is not a fit case to grant relief.

6. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

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