

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

CRIMINAL APPLICATION NO. 6220 OF 2015

Kadir Khan s/o Bashir Khan

...Applicant

VERSUS

The State of Maharashtra

...Respondent

.....
Smt. U.T.Pathan, advocate h/f
Shri T.W.Pathan, advocate for applicant
Shri B.A.Shinde, A.P.P. for respondent/State
.....

CORAM : INDIRA K.JAIN, J.

DATED : 17th December, 2015

ORDER :

Here is an application for regular bail in Crime No. I-101/2015, registered at Satara Police Station, District Aurangabad for the offences punishable under Sections 302, 201, 177, 323, 504 r/w 34 of the Indian Penal Code.

2] Heard Smt. U.T.Pathan, advocate holding for Shri T.W.Pathan, learned counsel for applicant and Shri B.A.Shinde, learned A.P.P. for respondent/State. Perused the papers of investigation.

3] On the basis of M.L.C. received from Ghati Hospital, Aurangabad A.D. No. 20 of 2015 was registered. Deceased Hamsherbi was sister of applicant Kadir Khan. On 17.5.2015

between 8.30 and 9.00 p.m. Hamsherbi was found dead in her father's home. Dead body was sent for postmortem. Medical Officer opined cause of death as asphyxia due to strangulation. On receiving medical opinion regarding cause of death A.P.I. Sakharam Sanap lodged report on behalf of the State against the father and brother of deceased.

4] It is alleged that Hamsherbi was married twice. Then she was residing at her parental home. Applicant and father of Hamsherbi were suspecting her chastity and so they committed her murder by strangulation and tried to destroy evidence.

5] Prosecution case is based on circumstantial evidence. It appears that during investigation statement of Chandkha Bashirkha was recorded by police and also by the Magistrate under Section 164 of the Code of Criminal Procedure. In his statement ChandKha stated that his father and brother/applicant disclosed to him that they committed murder of Hamsherbi by strangulation. The role attributed to applicant is that he caught hold the deceased and father strangled.

6] Investigation is completed and charge sheet has been filed. Applicant was arrested on 18.5.2015 and since then he is in custody.

7] Since prosecution case exclusively rests on circumstantial evidence and except extra judicial confession and motive there is no other link evidence this court finds that no purpose would be served

by keeping applicant in further custody. Application deserves to be allowed. Hence the following order.

ORDER

- (i) Criminal Application Nos. 6220 of 2015 is allowed.
- (ii) Applicant Kadir Khan s/o Bashir Khan is released on bail in Crime No. I-101/2015, registered at Satara Police Station, District Aurangabad for the offences punishable under Sections 302, 201, 177, 323, 504 r/w 34 of the Indian Penal Code. on furnishing P.R. and S.B. of Rs. 25,000/.
- (iii) Applicant shall not tamper with the prosecution evidence and shall make himself available as and when required.
- (iv) Bail before the Trial Court.

[INDIRA K.JAIN, J.]

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