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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.6952 OF 2014

Sumit s/o Dilipsing Chavan
Age-20 years, Occ – Business
R/o Bramhin Galli, Kannad,
Taluka-Kannad, District-Aurangabad

APPLICANT

VERSUS

The State of Maharashtra
Through Police Inspector,
Police Station Kannad,
Taluka – Kannad, District – Aurangabad

RESPONDENT

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Mr. V. J. Dixit, Sr. Advocate i/b Mr. J. R. Pawar, Adv for applicant
Mrs. M. A. Deshpande, APP for respondent State

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[CORAM : T.V.NALAWADE, J.]

DATE: 28th JANUARY, 2015

ORDER:

1. This application is filed for bail. Both the sides are heard.

This Court has perused the papers of investigation.

2. The crime has been registered on the basis of a report given by a girl, who is studying in 12th Standard. On 4th November, 2014, this girl and her friends, including girl friends and some boys had gone to Pitalkhora Leni for outing, from the place of tuition. She has made allegations that after 11.15 am

when they went to the spot, 7/8 boys were already present there. Out of them, she knew three boys namely - Yogesh Chaudhari alias Bhayya, Prashant Deshmukh and Kedar and with them there were 5/6 more boys. She made allegations that these boys assaulted Amol by using sticks, kick and fist blows. Amol became unconscious and he was shifted to hospital, where he was declared to be dead. These boys were angry and they were saying that the girls, who are Hindus, had come there with Muslim boys. She has contended that though other four to five boys were not known to her, she can identify them.

3. Charge sheet has already been filed. Submissions made by learned APP show that no Test Identification Parade was held, to give an opportunity to the witnesses to identify those four to five boys. The prosecution wants to prove that present applicant – Sumit Chavan, was amongst those four/five boys. In supplementary statement, the complainant gave names of few more boys, by contending that she learnt names of said boys subsequently, however, name of the present applicant is not mentioned even in supplementary statement of the complainant. The Postmortem report shows that there was contusion at three places over chest, there was contuse lacerated wound over left cheek, and one contuse lacerated wound on left side of forehead.

There was fracture of 5th and 6th rib on right side and due to his fracture, there was rupture on lower lobe of lung at right side. The death took place due to cardioresperatory arrest due to hemorrhagic shock due to multiple organ rupture to right lung, liver and spleen. It can be said that the injuries inflicted on the chest had caused these internal injuries.

4. In ordinary course, this Court would not have granted bail to the applicant, as incidents of this nature are increasing and in the name of moral policing, such persons are creating rift between two communities. However, it is also the responsibility of the investigating officer to collect material, which can be specific as against persons like the present applicant. Only due to absence of such material, at present, this Court holds that relief can be given to the applicant as he is behind bars since 05.11.2014.

5. This Court wants to make it clear that the girls may be in a position to identify even the present applicant, in future during trial and the observations by this Court may not come in the way of the prosecution to prove offence even against present applicant.

6. In the result, the application is allowed. The applicant is to

be released on bail on his furnishing PR and SB of Rs.50,000/- (Rupees Fifty Thousand) with one solvent surety of like amount. The applicant is not to tamper with the prosecution witnesses. He is not to go to the vicinity of those girls, their residential places and also near their college and tuition places. In case of breach of any condition mentioned above, the bail is liable to be cancelled.

[T.V.NALAWADE, J.]

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