

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.564/2015

Gajanan Narayanrao Shripadvar.vs.State of Maharashtra, thr.PSO P.S. Rajapeth, Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. P. V. Navlani, Advocate for applicant.
Mr. Laddhad, A.P.P. for non applicant-State

CORAM : V. M. DESHPANDE, J.
DATE : SEPTEMBER 16, 2015.

Heard learned counsel for the parties.

By the present application, the applicant is seeking his release on bail since the applicant is arrested in Crime No.320/2014 registered with Police Station Rajapeth, Amravati for an offence punishable under Sections 302 and 201 of the IPC.

The investigation is over. Charge-sheet is already filed. With the assistance of the learned A.P.P. I have gone through the FIR, which is lodged by ASI Tukaram Rathod, who was the Night Officer at Police Station, Rajapeth, Amravati during 13.09 hrs. of 12.09.2014 to 8.00 hrs. of 13.09.2014.

The FIR states that the Night Officer received an intimation on phone that one person is lying in a *nali* situated near the house of one Sharad Joshi at Krushnarpan Colony. He reached the spot along with other police staff just to notice that a person was lying in the said *nali*. He was taken out.

From the documents in his pocket, identity of the deceased was established as Kishor Shripadvar, r/o Ravikiran Colony. Initially, accidental death under Section 174 of Cr. P. C. vide A.D.No.74/2014 was registered and during the investigation of the said A.D., the Investigating Officer noticed some blood stains on the motorcycle of the present applicant-Gajanan who is younger brother of the deceased. According to the FIR, the present applicant has confessed to police that he has committed murder of his brother.

According to the charge-sheet, weapon i.e. the cricket stump is recovered at the instance of the present applicant from *Amba nala*, a place open for everybody. Further, according to the charge-sheet there is extra judicial confession of the present applicant to his sister. The extra judicial confession is a very weak piece of evidence and on the basis of the said confession alone, conviction cannot be secured. Further the confession which is stated by the prosecution is clearly inadmissible since it is made to police officer. Looking to such nature of evidence against the present applicant and the fact that the investigation is over, I see no reason that the applicant should continue his presence in the jail custody.

In that view of the matter, following order is passed

ORDER

- (i) Criminal Application No.564/2015 is allowed.
- (ii) Applicant–Gajanan Narayanrao Shripadvar be released on bail in connection with Crime No.320/2014 registered with Police Station Rajapeth, Amravati for an offence punishable under Section 302 and 201 the IPC on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) Bail before trial Court.

JUDGE

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