

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

CRIMINAL APPLICATION NO.8 OF 2016

Shalik s/o Sahebrao Bhotkar,
Age 28 years, Occu. Agril.,
R/o Sasurwada, Taluka Sillod,
District Aurangabad
(at present in judicial custody in
District Prison, Aurangabad)

..Applicant

Versus

The State of Maharashtra,
through Police Station,
Sillod, District Aurangabad

..Respondent

Mr S.J. Salunke, Advocate for applicant
Mr A.S. Shinde, A.P.P. for respondent

- WITH -

CRIMINAL APPLICATION NO.42 OF 2016

Bhagwan Ramdas Zond,
Age 21 years, Occu. Labour,
R/o Charner, Taluka Sillod

..Applicant

Versus

1. The State of Maharashtra,
through P.I., Police Station
(Rural), Sillod

2. The Superintendent of Police,
Aurangabad, District Aurangabad

..Respondents

Mr P.A. Kulkarni, Advocate for applicant
Mr A.S. Shinde, A.P.P. for respondents

CORAM : N.W. SAMBRE, J.

DATE : 8th February 2016

PER COURT

Heard.

2. Both the applicants are seeking regular bail in Crime No.I-97/2015, registered on 9th July 2015, at Sillod (Rural) Police Station, District Aurangabad, for the offences punishable under Sections 302, 201, 120-B read with Sec.34 of Indian Penal Code.

3. The prosecution story against the present applicants is as under:

4. That, applicants were instrumental in hatching conspiracy to kill Anusaya, daughter of Mangala. Deceased Anusaya was married in March 2015 with one Ankush, however, since she did not get along with him, she returned back to her parental house. Anusaya then was claimed to have established relation with one Dnyaneshwar. It is also claimed by the prosecution that deceased Anusaya was having relation with accused-applicant Bhagwan, who was also known about illicit relation of Anusaya with Dnyaneshwar.

5. Apart from above, Anusaya used to work with Radhabai and one Shobha. Both Radhabai and Shobha used to take Anusaya for executing certain agricultural work on daily wages basis. It is claimed by prosecution that to get rid of repeated threats of marriage received from Anusaya, all the accused have conspired to murder Anusaya. The prosecution claims that applicants have murdered Anusaya. Applicants, as such are claiming regular bail.

6. Learned Counsel for the applicants, while making out the case for grant of regular bail would urge that the applicants are falsely implicated in the crime in question. It is further claimed that the applicants were subjected to custodial interrogation and nothing incriminating could be recovered from them. It is the case of the

applicants that there are no eye witnesses to the incident and the case is based on weak piece of circumstantial evidence.

7. Learned A.P.P., while opposing the applications would urge that the conspiracy and the communication in between the applicants and the co-accused could be inferred from the mobile phone call details, which were produced on record. He would further urge that there is an independent witness, who speaks of presence of applicants at the spot of the incident, however, he has not witnessed the incident in question. Learned A.P.P. then would urge that the circumstantial evidence as is brought on record is sufficient to infer the prima facie involvement of the applicants in the crime in question.

8. With the assistance of the respective Counsel, I have perused the investigation papers.

9. The applicant - Bhagwan is involved in the crime in question having illicit relation with Anusaya, whereas the applicant Shalik Bhotkar was having illicit relation with one Radhabai with whom Anusaya used to go for agricultural work.

10. Perusal of the investigation papers reflects that there is no eye witness to the incident and the only evidence, which is pressed into service for rejection of bail is that C.D.R. reports of the mobile phones which were used by the applicants.

11. Though the C.D.R. reports are placed on record, however, at page 76, the C.D.R. does not speak of the date for which the C.D.R. reports were drawn. Apart from above, the SIM at page 76 reflects to

have been issued in the name of one Alka, the statement of said card holder Alka is also not recorded. The mobile phones in question are also not seized from the applicants.

12. In this background, the only piece of evidence, which was sought to be placed on record for the purpose of consideration of bail applications appears to be too weak to detain the applicants in the matter.

13. Apart from above, it is an admitted fact on record that there are no eye witnesses to the incident. The other evidence, as is available cannot be termed as incriminating against the applicants, particularly in the form of circumstantial evidence. As such, the applicants are entitled to be released on bail.

14. The applicants be released on bail in Crime No.I-97/2015, registered on 9th July 2015, at Sillod (Rural) Police Station, District Aurangabad, for the offences punishable under Sections 302, 201, 120-B read with Sec.34 of Indian Penal Code, upon furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount, by each of them.

15. Criminal Applications stand allowed in above terms.

vvr

(N.W. SAMBRE, J.)