

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

CRIMINAL APPLICATION NO.497 OF 2016

Satish s/o Suryabhan Satdive,
Age 36 years, Occu. Furniture,
R/o Chapaner, Taluka Kannad,
District Aurangabad

..Applicant

Versus

The State of Maharashtra,
through the Superintendent of Police,
Aurangabad

..Respondent

Mrs M.D. Thube-Mhase, Advocate (for Lex Aquila) for applicant
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 11th February 2016

PER COURT

Heard.

2. The applicant is seeking regular bail in Crime No.249/2015 registered on 5th December 2015 at Kannad Police Stataion, District Aurangabad, for the offences punishable under Sections 307, 323, 504 read with sec.34 of Indian Penal Code.

3. The prosecution story against the applicant is that deceased Eknath was burnt by the present applicant and two other persons namely Janardhan and Vijay.

4. Learned Counsel for the applicant, while trying to make out the case for grant of regular bail, would urge that there is delay of two days in lodging the complaint and the applicant is roped in falsely. The applicant is not named in the F.I.R. She would further urge that the

applicant was subjected to custodial interrogation in P.C.R. And nothing adverse has been noticed against him.

5. Learned A.P.P. opposed the application on the ground that the investigation is still going on and there is reference of the applicant in dying declaration as brother of one of the accused, namely Vijay.

6. Perused the entire investigation papers. Apart from the unexplained delay in lodging the complaint, the dying declaration does not mention the name of present applicant but referred to as the brother of accused Vijay.

7. Apart from above, it is to be noted that the wife of deceased has stated name of present applicant. Further, the contents of dying declaration raises serious doubt as regards the incident in question, as the deceased voluntarily went to the place of the applicant under influence of liquor and claimed that deceased was erupted on the issue of distribution of property.

8. In my opinion, once the applicant is subjected to custodial interrogation and for the unexplained delay in lodging the complaint and non-mentioning the name of applicant either in dying declaration and in the F.I.R., the applicant is entitled to be released on bail.

9. As such, Criminal Application stands allowed. The applicant be released in Crime No.249/2015 registered on 5th December 2015 at

Kannad Police Stataion, District Aurangabad, for the offences punishable under Sections 307, 323, 504 read with sec.34 of Indian Penal Code, upon furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

10. The applicant shall keep himself away from the jurisdiction of Kannad Police Station, District Aurangabad, till filing of charge-sheet.

11. The applicant shall not tamper with the evidence.

(N.W. SAMBRE, J.)

vvr