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

CRIMINAL APPLICATION NO.503 OF 2016

Kisan s/o Shankar Puri

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr S.S. Londhe, Advocate for applicant;
Mr A.S. Shinde, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 1st February, 2016

ORDER :

The applicant is seeking pre-arrest bail, in connection with C.R. No.172 of 2015, registered with police station, Manwat, District Parbhani, for offences punishable under sections 302 and 120-B of the Indian Penal Code.

2. The incident is alleged to have taken place on 21st December, 2015, for which the first information report has been lodged on 22nd December, 2015.

3. One Datta Vasant Muthal, real brother of deceased Vithal, alleged that his real brother Vithal was murdered by the present applicant, resulting into registration of the offence in question.

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4. While trying to make out a case for grant of pre-arrest bail, learned Counsel appearing on behalf of the applicant, would urge that even if the incident as narrated in the first information report is taken to be true at its face value, it is difficult to conclude that the applicant has committed an offence punishable under section 302 of the Indian Penal Code. He would then urge that there is delay of 24 hours in lodging the first information report and as such, it could be easily inferred that the contents of the first information report are by way of afterthought. According to the applicant, there were business relations between the applicant and deceased Vithal and when deceased Vithal expired at the place of the applicant, the applicant was not present on the spot. According to him, at the most the applicant could have been booked under section 306 of the Indian Penal Code, still he is entitled for pre-arrest bail, in view of his absence on the spot. According to him, even the first information report would not speak of any abetment.

5. Learned Addl. Public Prosecutor has opposed the application on following grounds :-

(a) That there was business transaction/relation between deceased Vithal and the applicant;

(b) The deceased Vithal has consumed poison at the residence of the present applicant;

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(c) The eye-witness to the incident speaks of involvement of the applicant in the crime in question.

6. With the assistance, I have perused the investigation papers.

7. Upon perusal of the investigation papers, it is difficult to infer at this stage, that the applicant has committed an offence punishable under section 302 of the Indian Penal Code. The statement of the alleged eye-witness does not speak of presence of the applicant at the spot of the incident, i.e. the place of his residence.

8. Apart from above, the fact remains that delay of one day in lodging the first information report speaks of a conspiracy and throwing of insecticide in the mouth and on the body of deceased Vithal.

9. The investigation speaks of absence of the applicant on the spot.

10. In view of above, the story narrated in the first information report appears to be improbable.

11. In view thereof, in my opinion, it will be appropriate to grant pre-arrest bail to the applicant. Thus, the following order :-

In the event of arrest of the applicant, in connection with C.R. No.172 of 2015, registered with police station, Manwat, District Parbhani,

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for offences punishable under sections 302 and 120-B of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall attend the concerned police station, initially from 8th February, 2016 to 11th February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

The applicant shall not enter village Kekar Jawala, Taluka Manwat, Dist. Parbhani, till filing of the charge-sheet.

The applicant shall deposit costs of Rs.1,000/- with the Library of Advocates' Association of Bombay High Court at Aurangabad, for supplying incorrect typed copy of the first information report, within two days from today.

The observations made herein above are *prima facie* in nature.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj