

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

CRIMINAL APPLICATION NO.742 OF 2016

Ashok alias Pintu s/o Sahebrao
Gaikwad, Age 29 years,
Occu. Private Service,
r/o House No.361, Near Dr.Sundar
Gore Hospital, Choupati Karanja,
Ahmednagar, Taluka and
District Ahmednagar

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr R.S. Deshmukh, Advocate for applicant
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 17th February 2016

PER COURT

Heard.

2. The applicant is seeking regular bail in Crime No.I-226 of 2015 registered on 6th August 2015 at Kotwali Police Station, Ahmednagar for the offences punishable under Sections 302 and 201 read with Sec.34 of Indian Penal Code. The applicant is arrested pursuant to incident on 7th October 2015 and charge-sheet in the matter came to be filed on 31st October 2015.

3. The prosecution case against the applicant is that the applicant, though not named in the F.I.R. but whose presence and participation in commission of the offence in question could be ascertained from the CCTV footage collected from Ashoka Hotel, who noticed to have assaulted and murdered Sanjay Madanlal Joshi.

4. Mr Deshmukh, learned Counsel for the applicant, while trying to make out the case for grant of bail would urge that the custodial detention of the applicant is not necessary, as the investigation in the matter is complete and charge-sheet is already filed. He would then urge that though the applicant is not named in the F.I.R., however he is implicated as accused in the light of CCTV footage collected from the said hotel. According to him, the applicant has not actively participated in the crime, He went to the said place, which is a Bar and Restaurant for consumption of liquor. It is, during this period, the differences between Sanjay and other accused persons arose and other accused persons assaulted deceased Sanjay resulting into his death. It was then urged that there is no criminal intention on the part of present applicant to commit the crime in question.

5. Learned A.P.P. submits that the case in hand was thoroughly investigated and upon perusal of the charge-sheet, which is filed in the Court, it could be easily inferred that the applicant is involved in the crime in question. According to him, the fact remains that there are eye witnesses to the incident and CCTV footage, which is seized in the crime depicts presence of the applicant at the place of crime, along with other accused persons. He would then urge that the application be rejected.

6. Perused the investigation papers. In my opinion, there is sufficient evidence available on record, which depicts involvement of the applicant in commission of crime in question, it is required to be

noted that the differences arose in between Sanjay Dhapse, Bablu Subhedar and applicant. Having noticed the differences, the hotel owner asked them all to leave the hotel and after deceased Sanjay came out of the hotel, applicant and other accused persons assaulted deceased Sanjay and committed his murder. Even if the case of the applicant that he has not actively participated in commission of crime is considered, it is required to be noted that physical presence on the part of the applicant at the scene of offence could be seen from the CCTV footage. The accused persons tried to destroy the CCTV footage, however, the CCTV footage from part of the said hotel depicts presence of the applicant at the scene of offence, rather shown his participation. The owner of the Bar and other persons are the eye witnesses who have named the present applicant as one of the accused, who has committed the crime in question.

7. In my opinion, there is strong case against the applicant about involvement in the crime in question. As such, application fails, stands rejected.

(N.W. SAMBRE, J.)

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