

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

908 CRIMINAL APPLICATION NO. 798 OF 2016
IN CRIMINAL APPEAL/46/2016

SANJAY S/O HARIBHAU KOKARE AND ANR
VERSUS
THE STATE OF MAHARASHTRA.

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Advocate for Applicants : Mr. Gaware Niteen V.
Mr. SP Deshmukh, APP for Respondent/State.

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: April 27, 2016

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PER COURT :-

1) Heard. This is an application for enlargement of the applicants/accused on bail. The applicants/accused have been convicted for the offence punishable under Section 302 of Indian Penal Code and have sentenced to suffer rigorous imprisonment for life. The evidence led by the prosecution in order to prove the guilt of the accused is mainly of circumstantial nature. The motive for committing the murder is alleged to be illicit relations between the deceased and wife of accused no.1. The whole prosecution case rests upon extra-judicial confession made to PW 8 - Rajendra. It is alleged that after the incident, accused No.1 disclosed the happening of incident and details in respect of the commission of offence on mobile phone to PW no.8 - Rajendra. PW 8 has reason to state against the accused since there are civil disputes pending wherein mother of the accused is also impleaded as one of the defendants. The oral evidence of PW 8 does not find any corroboration from any other circumstance or oral testimony of the prosecution witnesses. It would be quite unsafe to place complete reliance on the evidence of PW 8 concerning

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the extra-judicial confession of the accused No.1 given to him on mobile phone. According to us, the chain of circumstances is not complete so as to point out the accused as the only persons, who could have committed the alleged offence. The accused/applicants were on bail during the continuance of the trial and it has not been reported that they have misused their liberty

2) In the facts of the case, we are of the considered view that the applicants have made out a case for their enlargement on bail during continuance of appeal. The application is thus allowed. The applicants are directed to be released on bail during pendency and disposal of the appeal on their furnishing personal bond of Rs.50,000/- each, with one surety each for the like amount. Bail before the trial court. The Criminal Application stands disposed of.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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