

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 966 OF 2016

Eknath S/o Asaram Bhojane
Age 34 years, Occu.: Agri.,
R/o Galli No.2, Saliwada/
Dhangarwada, Paithan,
District Aurangabad .. Applicant

Vs.

The State of Maharashtra
Through Police Station
Paithan District Aurangabad .. Respondent

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Mr. N.S. Ghanekar, Advocate for the applicant
Mr. U.S. Mote, APP for the respondent-State

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CORAM : M.T. JOSHI, J.
DATED : 10/03/2016

ORAL ORDER :

Heard both sides.

2. The present applicant, who is arrested by Paithan Police Station, Dist. Aurangabad in Crime no.I-18 of 2015 for the offences punishable under section 302, 120-B r/w. 34 of the Indian Penal Code, out of which, now Sessions Case No. 132 of 2015 in

the Court of Additional Sessions Judge, Aurangabad is pending, is praying for his release on bail.

3. Hearing from both sides as well as the case papers would show that dead body of one Radhakishan was found in a field of one Aba Radhakishan in Pandhewadi area. His son therefore filed complaint against an unknown person.

. During investigation, the Investigating Officer found that the present applicant had illicit relations with the daughter of the deceased and upon the said issue, the deceased had earlier raised a quarrel with the present applicant.

. The next of the material is that while in the morning, the deceased was seen going towards the field, in the evening at about 5:00 to 5:30 pm, the present applicant alongwith another person were seen going towards the same direction on a motorcycle.

. The third of the material is of the alleged

statement made by the applicant, leading to the recovery of the blood stained shirt.

4. Mr. Ghanekar, learned counsel for the applicant submits that as per the prosecution itself, the deceased had separated himself from his wife and daughter and, therefore, both of them were residing in different villages. In the circumstances, he submits that the evidence of motive is absent. Further, there is no material to show that the applicant and the deceased were last seen together. The only material of seizing of the blood stained clothes is there, which, he submits that is a forged recovery.

5. Mr. Ghanekar, learned counsel for the applicant further submits that the applicant is behind the bar since 25/01/2015 and in the circumstances, he be released on bail.

6. Learned A.P.P. opposed the application. He submits that the motive as well as the other

material on record prima facie would show that the present applicant has committed the crime.

7. Upon hearing both sides, and upon considering the fact that the case is based on circumstantial evidence and the fact that the applicant is behind the bar since 25/01/2015 and that the trial may take its own time, in my view, the applicant can very well be released on bail on certain conditions.

8. Hence, the following order:-

I) The Application is allowed.

II) The applicant be released on bail in Crime no. I-18 of 2015 registered with Paithan Police Station, Dist. Aurangabad for the offences punishable under section 302, 120-B r/w. 34 of the Indian Penal Code, upon his executing P.R. bond in the sum of Rs.30,000/- (Rs. Thirty Thousand) and also upon furnishing surety in the like amount.

III) The applicant shall not in any way attempt to influence any of the prosecution witnesses in any manner.

9. Application stands disposed of accordingly.

[M.T. JOSHI]
JUDGE

arp/-