

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

CRIMINAL APPLICATION NO.991 OF 2016

Pramod s/o Jaiwantrao Nirmal,
Age 30 years, Occu. Agri.& Business,
R/o Shivoor, Taluka Vaijapur,
District Aurangabad

..Applicant

Versus

The State of Maharashtra,
through the Police Station Officer,
Kranti Chowk Police Station,
Aurangabad

..Respondent

Mr S.S. Choudhari, Advocate for applicant
Mr A.S. Shinde, A.P.P. for respondent
Mr Zia-ul-Mustafa with Mujtaba Gulam Mustafa, Advocates for
complainant, assisting A.P.P.

CORAM : N.W. SAMBRE, J.

DATE : 2nd March 2016

PER COURT

Heard.

2. The applicant is seeking bail in Crime No.23 of 2016, registered at Kranti Chowk Police Station, Aurangabad, for the offences punishable under Section 302 read with Sec.34 of Indian Penal Code and under Sections 82 and 90 of the Bombay Prohibition Act.

3. The incident in question has occurred on 31st December 2015, which has resulted into filing of complaint in question.

4. The prosecution story against the applicant is that the applicant along with his one more friend have murdered Mehboob, son of the complainant.

5. While trying to make out the case for grant of bail, learned Counsel for the applicant would urge that the incident in question took place in the intervening night of 31st December 2015 and 1st January 2016. He would then urge that the role attributed to the present applicant is that of mere presence and no specific role is attributed to him in the commission of crime in question. According to him, it was never intention of the applicant to commit crime in question and at the most, the offence could be punishable under Section 299 of the Indian Penal Code.

6. Learned A.P.P. opposed the application on the ground that the investigation is in progress. If the applicant is released, there is every likelihood of tampering with the evidence. According to him, the applicant's prima facie involvement is apparent, as could be confirmed from the investigation papers.

7. Learned Counsel for the complainant has assisted learned A.P.P. and opposed the bail on the ground that in most brutal manner the applicant along with another accused have murdered the minor son of the complainant.

8. With the assistance of learned A.P.P., I have perused the investigation papers.

9. The post mortem report narrates that the cause of death of the complainant's son as 'Cardiac tamponade due to rupture of left atrium'. The victim has suffered the injuries as are narrated in column No.17. The eye witnesses to the incident are the Managers and the

room boy who were serving in a lodge by name Miza. Witness Bhimraj has stated in his statement the specific role attributed to the applicant in commission of crime in question. Not only this, the applicant along with another accused have tried to destroy the evidence as apparent from the investigation papers. There is strong prima facie case against the applicant and as the investigation in the matter is not completed, in my opinion, the applicant does not deserve to be released on bail.

10. In view of this, no case for grant of regular bail is made out. As such application stands rejected.

(N.W. SAMBRE, J.)

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