

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

CRIMINAL APPLICATION NO. 1079 OF 2016

Udhav s/o Shankar Puri,
Age: 48 years, Occ: Agri.,
R/o. Kekar Jawala, Tq. Manvat,
Dist. Parbhani.

...Applicant

versus

The State of Maharashtra
Through Police Station Officer,
Police Station Manwat,
Tq. Manwat, Dist. Parbhani.

...Respondent

.....
Mr. S.S. Londhe, Advocate for applicant
Mr. M.M. Nerlikar, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 29th FEBRUARY, 2016

ORAL ORDER :

The applicant is seeking pre-arrest bail in Crime No. 170 of 2015 registered with Manwat Police Station, Taluka Manwat, District Parbhani for the offence punishable under Sections 302, 120(B) of Indian Penal Code.

2. The case of prosecution is that brother of complainant namely Vitthal was murdered as certain amount towards wages was due from the present applicant and Vitthal had been to the place of applicant time and again demanding the said amount of wages.

3. It is claimed that since the amount was not paid, deceased Vitthal has died after consuming poison, which was administered by present applicant, as such applicant has murdered Vitthal.

4. While trying to make out a case for grant of bail, learned Counsel for the applicant would urge that the applicant, handicapped person, is unable to commit the act in question and has sought to rely upon the disability certificate issued by medical authority. He would then urge that delay in lodging first information report and the fact about different place of residence of applicant and that of accused Udhav is also required to be appreciated.

5. Learned A.P.P. opposed the application on the ground that the applicant is specifically named in the first information report with specific attribution. According to him, the application be rejected as there is *prima facie* evidence against the applicant.

6. Perused the investigation papers. The cause of death as is cited is because of consumption of poisoning. The bottle containing poison and clothes of deceased were recovered.

7. In my opinion, the investigation is at preliminary stage. To ascertain the degree of involvement of applicant in the crime, the custodial interrogation is necessary.

8. In view of above, in my opinion, since there is *prima facie* evidence against the applicant/accused, no case for grant of pre-arrest bail is made out. The application fails, stands rejected.

[N.W. SAMBRE, J.]