

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

CRIMINAL APPLICATION NO. 1558 OF 2016

Umesh Nanvath Kokate

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

.....
Mr. R.N. Dhorde, Sr. Advocate h/f Mr. V.S. Undre, Advocate for applicant.

Mrs. R.K. Ladda, APP for respondent.

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CORAM : INDIRA K. JAIN, J.

DATED : 1st APRIL, 2016

ORDER :

. Here is an application for regular bail in Crime No. 147 of 2015 registered at Vashi Police Station, District Osmanabad for the offences punishable under Sections 302, 307, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

2. The prosecution case as can be seen from police papers is that on 26.08.2015 at around 3.30 p.m. complainant Sadashiv Dharamraj Anbhule was proceeding towards his field from cattle-shed through village Nipani. He reached the corner of house of Bhujang Limbaraj Kokate. That time present applicant with other co-accused

Ramesh, Navnath and juvenile offender Akshay were near the wall of the house. They suddenly came in front of victim. Applicant Umesh was having iron Katavani in his hand and co-accused were armed with iron rods. According to complainant applicant and other co-accused abused him in filthy language, threatened to kill him. Ramesh and Navnath caught hold the victim. Applicant Umesh delivered a blow with iron Katavani on the head of Sadashiv and caused grievous injury resulting to death. Injured became unconscious and fell on the ground. On 28.08.2015 he regained consciousness in the hospital. Statement of victim was recorded. The same was treated as FIR. In the same night victim Sadashiv succumbed to injury and died. Initially offence under Section 307 was registered. On the death of Sadashiv offence under Section 302 of the Indian Penal Code was added.

3. Mr. Dhorde, learned Senior Counsel for applicant vehemently submitted that due to strong political enmity applicant and co-accused have been falsely implicated. Learned Senior Counsel would submit that Mohan Uttam Anbhule was the brain behind the episode. He belongs to rival political group. He accompanied victim right from the incident till he was taken to hospital. Still FIR was lodged on 28.08.2015. The learned Senior Counsel submitted that delay in FIR clearly indicates false implication of applicant.

4. Learned Senior Counsel further submits that in respect of co-accused Ramesh, CCTV footage was collected. Its report was called. On the basis of report it was revealed that Ramesh was not present on the spot at the relevant time but he was present elsewhere. CCTV footage falsify the allegations in FIR regarding co-accused Ramesh. It clearly indicates that due to political enmity a different colour was given and applicant was unnecessarily involved.

5. Mrs. Ladda, learned APP strongly opposed the enlargement of applicant on bail. She submits that specific role has been attributed to applicant. He was responsible to cause injury which resulted into death. The learned APP would submit that considering the seriousness of offence application be rejected.

6. As can be seen from police papers charge sheet has been filed in the case. This Court has gone through the police papers. Post mortem report shows that one blow on the head was fatal. Applicant belongs to rival political group. Co-accused have been released on bail.

7. Applicant was arrested on 29.08.2015. No fruitful purpose would be served by keeping the applicant in further detention. It is not the case of prosecution that applicant would flee away and would not be available for trial. In this premise application deserves to be allowed.

Hence the following order:

ORDER

- I) Criminal Application No. 1558 of 2016 is allowed.
- II) Applicant Umesh Navnath Kokate is released on bail in Crime No. 147/2015 registered at Vashi Police Station for the offences punishable under Sections 302, 307, 323, 504 and 506 read with Section 34 of the Indian Penal Code upon furnishing P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand Only) each with one surety in the like amount.
- III) Applicant shall not tamper with prosecution evidence and shall make himself available as and when required.
- IV) Bail before the Trial Court.

(INDIRA K. JAIN, J.)