

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1854 OF 2016

Syed Sagiruddin Jainuddin,
Age : 54 years, Occu. Agriculture,
R/o Dhangar Mohalla, Ambad,
Tq. Ambad, District Jalna

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

Mr. Joydeep Chatterji, Advocate for the applicant

Mr. U.S. Mote, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 12/04/2016

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who is apprehending his arrest at the hands of Ambad Police Station, District Jalna in Crime No. 31/2016, registered for the offences punishable under section 302 read with section 34 of the Indian Penal Code, is praying for his release on bail in the event of his arrest.

3. Deceased Shaikh Khaja died in the night between 20th February, 2016 and 21st February, 2016 while taking treatment in the civil hospital at Jalna. The deceased died apparently due to poisoning. His son has filed the complaint on 21st February, 2016.

. According to the complainant, while the deceased was taking treatment in civil hospital, Jalna and the I.Vs. were put in his nostril as well as mouth (?), he was unable to speak. However, when the complainant visited his father, at that time, he (the father) removed those I.Vs. and told the complainant that the present applicant alongwith other co-accused, namely, Chandabai and Sajedabai had jointly administered the poison to him over the issue of development of non-agricultural plots. Therefore, the offence came to be registered.

4. Mr. Joydeep Chatterji, learned counsel for the applicant, submits that the very allegations in the FIR that the tubes put in nostril and mouth of the deceased were removed by the deceased and further that he was not able to make the statement, are the false statements. He

further submitted that some of the witnesses had even informed the investigating officer that over the issue of having illicit relations with one of the co-accused, the deceased himself consumed the poison in the house of the said co-accused and died due to it. Mr. Chatterji, learned counsel files the true copy of the order dated 11th March, 2016, passed by the learned Additional Sessions Judge, Jalna in Criminal Misc. Petition No. 191/2016, by which the co-accused Chandabai Dadarao Chavan was directed to be released on bail on the same grounds. The same is accepted on record and marked "X" for the purpose of identification.

5. The learned A.P.P. opposed the application.

6. Perused the investigation papers. As per the prosecution case, the deceased was initially admitted to the Government Hospital, Ambad and thereafter, he was taken to Jalna. The case-papers would show that the Medical Officer at Ambad certified that the deceased who was then hospitalized there was unable to make a statement. Learned A.P.P. categorically submitted that there are no case-papers to show that the deceased was able to make statement while taking treatment in civil

hospital at Jalna.

7. As argued, the statements of some of the witnesses would show that the deceased himself has consumed poison in the house of the co-accused over the issue of having certain illicit relations with her.

8. Considering all the material on record, in my view, the custodial interrogation of the present applicant is not required. Hence, the following order:

9. In the event of arrest of the present applicant in Crime No. 31/2016, registered with Ambad Police Station, District Jalna for the offences punishable under section 302 read with section 34 of the Indian Penal Code, he shall be released on bail on his executing P.R. bond in the sum of Rs. 15,000/- (rupees fifteen thousand) and also upon furnishing surety in the like amount.

10. The applicant shall attend the investigating officer/concerned police station on every Monday between 09.00 a.m. to 10.00 a.m. for a period of three months starting from 18th April, 2016.

11. The present application is accordingly allowed and disposed of.

[M.T. JOSHI]
JUDGE

npj/criapln1854-2016