

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

Criminal Application No. 2018 of 2016

District : Jalna

Milind s/o. Nivrutti Ghuge,
Age : 26 years,
Occupation : Agriculture,
R/o. Maltondi,
Taluka : Mantha,
District : Jalna.

.. Applicant.

versus

The State of Maharashtra,
Through Mantha Police Station,
Taluka : Mantha,
District : Jalna.

.. Respondent.

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Mr. P.P. More, Advocate, for the applicant.

*Mrs. Vaishali N. Patil (Jadhav), Addl. Public
Prosecutor, for the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 23RD AUGUST 2016

ORAL ORDER:

Applicant / accused no.1 in Crime No. 68 of 2015, for offences punishable under Section 363, 364, 365, 302, 201, read with Section 34 of the Indian Penal Code, registered with Police Station, Mantha,

District Jalna, at the instance of Aminabi w/o. Mohd. Sayyad, by this application, is seeking release on bail.

2. Heard the learned Counsel appearing for the applicant / accused. He argued that only evidence available against the applicant in this case, based on circumstantial evidence, is recovery of human hair from near the well of the applicant and statement of witness Gopal s/o. Kadhalu Lahane. This material is not making out the offence.

3. The learned Addl. Public Prosecutor opposed the application by contending that the crime in question is serious, warranting severe punishable and therefore the applicant is not entitled for bail. She argued that call detail record of the applicant and the deceased shows that there were few calls exchanged between them lastly and thereafter Parveen is not seen alive.

4. Perused the charge-sheet. According to the prosecution case, as reflected from the charge-sheet, Parveen, who is daughter of informant Aminabi, left her husband after 8 days of her marriage and started residing with Aminabi. There was love relation between Parveen and applicant Milind. Parveen went missing in the evening hours of 21.06.2015. After searching her, her mother lodged report on

29.06.2015.

5. According to the prosecution case, the applicant had killed Parveen and buried her dead body near his well with the assistance of Gopal Lahane. Subsequently, according to the prosecution case, co-accused exhumed the dead body and disposed it off in river Dudhana at Rohina Shivar.

6. Confessional statement of the applicant resulted in recovery of long hair resembling hair of a female from the place which was dug out. This place was near well of the applicant / accused. Rotten smell was found to be emitting from that place.

7. Hair seized at the instance of the applicant were not sent for DNA finger printing test. The expert had obtained Control DNA profile of Aminabi. However, amplifiable DNA could not be obtained from the seized hair.

8. The next circumstance against the applicant is statement of witness Gopal Lahane. First version of this witness reflected from his statement dated 26.08.2015 is to the effect that witness Gopal Lahane stayed at his house from 05.00 p.m. of 21.06.2015 and never left his house. After about 10 days i.e. on 06.09.2015, witness Gopal Lahane has come up with the

version that on 21.06.2015 at about 08.30 p.m., he was in company of the applicant and he found the applicant with dead body of Parveen. This witness further stated that they buried the dead body near well of the applicant. This improved version is not containing any explanation as to why the witness has not come up with this story on first occasion. The incident allegedly took place on 21.06.2015, whereas first statement of Gopal Lahane was recorded on 26.08.2015.

9. Except this and evidence of telephonic talk exchange between the applicant and Parveen, no other tangible evidence is pointed out. It is well settled that in a case based on circumstantial evidence, prosecution is required to establish each and every link in the chain of circumstances and such circumstances must unerringly point out guilt of the accused and they should be inconsistent with his innocence.

10. Considering the nature of evidence against the applicant, his further pre-trial detention is not warranted. Hence, I pass the following order.

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the

sum of Rs. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(c) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(d) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial.

(e) The applicant shall not repeat commission of similar type of offences in future.

11. The Application stands disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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