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

CRIMINAL APPLICATION NO. 2559 OF 2016

Babruwan s/o Sitaram Kesale

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr A. V. Patil Indrale, Advocate for applicant;

Mr S. Y. Mahajan, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 7th June, 2016

ORDER :

This is an application under Section 439 of the Code of Criminal Procedure for ordering release of present applicant on regular bail, in connection with Crime No. 254 of 2015, registered at Chakur Police Station, Tq. Chakur, Dist. Latur, for the offences punishable under Sections 302 and 143 of the Indian Penal Code.

2. The crime came to be registered on 28th December, 2015 for alleged incident dated 27th December, 2015. The prosecution story, as is reflects from the first information report and the chargesheet is that the present applicant is running a fair price shop, in relation to which the deceased Gangaram Maroti Kesale had lodged repeated complaints against the applicant before the Tahsildar. As such, the applicant hatched conspiracy against deceased Gangaram and accordingly Gangaram was murdered on 27th December, 2015.

(2)

3. While trying to make out a case for grant of regular bail, Mr A. V. Patil Indrale, learned Counsel appearing on behalf of applicant submits that, but for the name of the present applicant in the first information report, none of the eye witnesses have named the present applicant about his involvement in the crime in question. So as to substantiate his contention, he has invited my attention to the statements of the eye witnesses namely, Rama Shankar Shinde and Raosaheb Punda Kesale, who have not named the present applicant in crime in question. He then submits that applicant is not involved in the crime in question as is apparent from the statements of witnesses and the theory of conspiracy, even if is to be accepted, there is hardly any material on record to infer the same.

4. Learned Additional Public Prosecutor, while opposing the application submits that sufficient material is collected against the present applicant showing his involvement in crime in question. He relies upon the contents of the first information report and submits that there is strong reason for the involvement of the present applicant in crime in question. He then submits that it was cold blooded murder of deceased Gangaram at the behest of the present applicant.

5. Having bestowed my thoughts to the submissions made and with the assistance, I have perused the chargesheet. It is required to be noted that the applicant is specifically named as one of the accused in first information report lodged by the complaint – son of deceased Gangaram.

(3)

6. If the statements of the eye witnesses namely, Rama Shankar Shinde and Raosaheb Punda Kesale are perused, there is no reference about the presence of present applicant at the spot of incident. Neither said statements of eye witnesses speaks about the involvement of the present applicant in crime in question. Apart from above, there is hardly any material on record including that of statements of the other witnesses to infer the involvement of the applicant in crime in question.

7. In view there of, in my opinion, the applicant is entitled to be released on bail. Hence I pass following order :-

The applicant be released on bail, in connection with Crime No. 254 of 2015, registered at Chakur Police Station, Tq. Chakur, Dist. Latur, for the offences punishable under Sections 302 and 143 of the Indian Penal Code, upon furnishing P.R. Bond of Rs 25,000/-, with one surety in the like amount. The applicant shall not tamper with the prosecution evidence.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

sjk