

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2599 OF 2016

Balasaheb S/o Pandurang Shinde .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. V.D. Salunke, Advocate for the applicant

Mr. C.V. Dharurkar, APP for the respondent-State

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CORAM : N.W. SAMBRE, J.

DATE : 04/07/2016

ORAL ORDER :

Heard.

2. The applicant is seeking bail in Crime no.184 of 2015 registered at Patoda Police Station, Dist. Beed for the offences punishable under section 302, 201, 364 r/w. 34 of the Indian Penal Code, for an alleged incident dated 15/10/2015 for which the FIR came to be lodged on 21/10/2015.

3. The prosecution story as against the present applicant is that, Chhayabai - wife of deceased Hanumant Shinde lodged an FIR, alleging that deceased - Hanumant was given certain aid by the Government towards crop insurance and having withdrawn the said amount from the bank, the present applicant alongwith the deceased Hanumant went to a Kala Kendra and consumed liquor. It is then claimed that present applicant alongwith other accused persons has murdered him.

4. Body of deceased Hanumant was found in a well and was in a very bad condition, as is reflected from the post-mortem report.

5. In the above background, learned counsel for the applicant Shri Salunke would urge that the applicant be released on bail in view of the completion of investigation, as the chargesheet is filed and there are no criminal antecedents. According to him, the case is based on

circumstantial evidence and the last seen theory is taken to be the basis for impleading him, which in his opinion, is improbable. He would then submit that if the post-mortem report is perused, no external injuries could be noticed and as such, the oneness prior to death of Hanumant cannot be noticed, hence the applicant is entitled to be released on bail.

6. Learned A.P.P. opposed the application on the ground that the CCTV footage of the instant Kala Kendra speaks of company of present applicant with that of deceased. He would then submit that thereafter deceased Hanumant vanished from the scene and after about 5-6 days, his body was discovered in a well in a decomposed condition. He would then submit that the applicant owes an explanation about his last seen together and prima facie circumstance of the applicant having last seen together with deceased, he prayed for rejection of the

application.

7. Having bestowed thoughts to the submissions advanced, it is required to be noted that in the post-mortem report, the viscera was preserved. The exact cause of the death of Hanumant was not mentioned in the post-mortem report. While responding to the query raised by the Investigating Officer, the expert opinion speaks that it cannot be inferred as to whether deceased - Hanumanta was first murdered and then was thrown in the well or he was straight away thrown in the well and he died due to drowning. Said opinion dated 17/12/2015 issued by the Associate Professor, Forensic Medicine & Toxicology Department at Medical College, Aurangabad however speaks that no external injuries could be ascertained as the body was decomposed, however, no injuries could be noticed on the bones of the deceased - Hanumant.

8. In the above background, if the statement of the hotel owner ,where the present applicant was last seen is noticed, the hotel owner, his son and attendants speak of the applicant's parting with the company of the deceased.

9. As the entire case is based on circumstantial evidence, in view of above observations, in my opinion, the applicant is entitled to be released on regular bail. There are no criminal antecedents and the applicant is not likely to run away from the prosecution. Hence, the following order:-

10. The applicant be released on bail in Crime no. 184 of 2015 registered with Patoda Police Station, Dist. Beed for the offences punishable under section 302, 201, 364 r/w. 34 of the Indian Penal Code, upon his executing P.R. bond in the sum of Rs.15,000/- (Rs. Fifteen Thousand) with one

surety in the like amount.

11. The applicant shall not tamper with the prosecution evidence or influence the witnesses in any manner.

12. During trial, the applicant shall co-operate with the Court below by not seeking unnecessary exemptions and shall not protract the trial.

13. Any attempt on the part of the applicant to protract the trial, if noticed by the learned Court below, it shall be open for the Court below to proceed with cancellation of bail of the applicant.

14. Criminal Application stands disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-