

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

**CRIMINAL APPLICATION NO. 2964 OF 2016**

Santosh s/o Kantilal Jagtap,  
age 30 years, occ. Agril.,  
R/o Gangavalan, Tq. Indapur,  
Dist.Pune

...Applicant

VERSUS

The State of Maharashtra

...Respondent

.....  
Shri R.N.Dhorde, Senior Advocate i/b  
Shri V.R.Dhorde, advocate for applicant  
Shri A.S.Shinde, A.P.P. for respondent  
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**CORAM : N.W.SAMBRE, J.**

**DATED : 27th JUNE, 2016**

**PER COURT :-**

Heard.

2. The applicant is seeking regular bail in  
Crime No.I-27 of 2016, registered on 20<sup>th</sup> January,

2016 at Gangapur Police Station, Taluka Gangapur, District Aurangabad, for the offences punishable under Sections 364, 120-B, 302, 201, 34 of the Indian Penal Code and under Sections 3/25 of the Indian Arms Act.

3. The applicant is named as accused no.1 and was arrested in the crime in question on January 20, 2016.

4. The prosecution story as against the present accused no.1 in nut shell appears to be that one Santosh More accused no.1 was having business of running a ladies bar. The present applicant and deceased were in friendly terms with the applicant and on the date of the incident accused Santosh was celebrating his birth day and as such had invited present applicant and deceased Anil Sharma. Accused no.1 was having some differences over the money transaction with deceased Anil and the accused Santosh in the morning hours of the fateful day fired from his

pistol from point blank range resulting into death of Anil on the spot. Santosh accused no.1 thereafter with the aid and assistance of his staff and other accomplice chopped the body of Anil into parts and disposed of the same at various places so as to destroy the evidence. As such crime in question.

5. While arguing to make out a case for grant of bail, learned Senior counsel for applicant Shri Dhorde would submit that active participation of the applicant in the crime in question is to be assessed from the material gathered. Shri Dhorde then would submit that the incriminating circumstances as are available against the applicant are that when the incident has occurred the applicant was with deceased Anil and accused Santosh enjoying birthday party organized by accused Santosh. He would then submit that the applicant's presence from the papers could be inferred but for his active participation in the crime in question. According to him, there is

hardly any material on record to infer a crime for the offence under Section 120-B/201 of the Indian Penal Code i.e. hatching conspiracy or destroying evidence apart from the active participation in the crime in question.

6. So as to substantiate his contentions, he has invited my attention to the statement of the wife of deceased Anil namely Rajeshkumari, and the statements of other witnesses Vijay, Yogita, Florence who are eye witnesses to the incident in question. The eye witnesses in clear terms have stated about the presence of the applicant in crime in question, however, have not attributed any specific role much less a role supporting the accused in commission of the crime in question.

7. The learned A.P.P. assisted by the investigating officer while opposing the bail would strenuously submit that the applicant's prima facie involvement in the commission of crime could be inferred by the investigation carried out

by the investigating officer. He would then submit that the material as collected against the applicant depicts his personal presence on the spot of the incident, the vehicle of deceased Anil was found in the custody of the applicant and there are monetary transactions between deceased Anil and the applicant which speaks of even the differences between the applicant and deceased Anil. He would then submit that the applicant is an influential person and if released on bail, would tamper with the evidence and influence upon the witnesses. According to him, the purpose will be served if trial is expedited and prayed for rejection of the application.

8. Having bestowed my thought to the submissions made, it is required to be inferred from the investigation papers that the only role inferred from the investigation papers, particularly the statements of eye witnesses could be that of personal presence of the applicant at the time of crime in question. The eye witnesses

or even the other material witnesses no way point a finger to the applicant that he directly or indirectly has participated in the crime of murder of Anil. Apart from above, there is hardly any material to infer that the applicant along with accused Santosh has hatched conspiracy to murder Anil. It is then required to be noted that the vehicles as are owned by the deceased and the accused persons seem to have been exchanged in between them, particularly about the applicant and deceased Anil. The vehicle of the applicant was carried by the driver of deceased Anil at his place; whereas the vehicle of deceased Anil was found in the custody of the applicant. The same cannot be an incriminating circumstance for rejection of the bail particularly when the vehicle of the applicant was found in the custody of the family of deceased Anil. The statement of the driver of deceased Anil speaks volumes about the same.

9. The investigation in the matter is already

complete. Charge sheet is filed. In my opinion, in view of above nature of evidence available against the applicant, question of further detention of the applicant does not arise, as his active participation in the entire crime is not noticed. In view of above, in my opinion, application needs to be allowed. Hence the following order.

(i) The applicant be released on bail in Crime No.27 of 2016, registered on 20<sup>th</sup> January, 2016 at Gangapur Police Station, Taluka Gangapur, District Aurangabad, for the offences punishable under Sections 364, 120-B, 302, 201, 34 of the Indian Penal Code and under Sections 3/25 of the Indian Arms Act upon his executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties in the like amount.

(ii) The applicant shall surrender his passport to the Sessions Court at

Vaijapur, District Aurangabad and he shall not leave the Country without prior permission of the learned Sessions Court.

(iii) The applicant shall attend the Trial regularly and shall not protract the same.

(iv) The applicant shall not tamper with the prosecution evidence or shall not influence the witnesses directly or indirectly.

(v) The applicant shall not enter the jurisdiction of police station till conclusion of the Trial but for attending the trial.

(vi) The violation of any of the conditions may entail the investigating officer to move for cancellation of bail before the learned Sessions Judge.

(vii) The application stands allowed in  
the above terms.

**(N.W.SAMBRE, J.)**

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