

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

**CRIMINAL APPLICATION NO.3193 OF 2016
IN
CRIMINAL APPEAL NO.375 OF 2016**

Sitabai w/o. Narayan Dahe ..Applicant

Vs.

The State of Maharashtra ..Respondent

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Mr.Y.B.Bolkar, Advocate i/b. Mr.A.S.Radikar,
Advocate for Applicant

Mr.A.R.Borulkar, APP for respondent

Mr.A.L.Kanade, Advocate assisting the A.P.P.

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**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : OCTOBER 03, 2016**

PER COURT :

Heard.

2. This application is filed by the applicant for grant of bail during pendency of the appeal.

3. The learned Counsel for the applicant submits that the prosecution has utterly failed to

prove the case by establishing the chain of circumstances. There is no evidence that the applicant was last seen together with the deceased. The other circumstances relied upon by the prosecution do not attribute any role to the applicant, who is original accused no.2. The learned Counsel, therefore, submits that the application may be allowed and the applicant may be released on bail during pendency of the appeal.

4. On the other hand, the learned A.P.P. invites our attention to the notes of evidence. He submits that Balnath (PW 11), on the previous day of the day of the incident, had received a phone call from the applicant that the deceased was troubling the applicant and in case, the deceased is not controlled by Balnath (PW 11) - uncle of the deceased, he will be killed. He further submits that Karbhari (PW 9) saw accused no.1 and another unknown person while carrying the dead

body in a gunny bag on the day of the incident and on the next day, the dead body was recovered. He further submits that the applicant was not on bail during the trial.

5. We have heard the learned Counsel appearing for the applicant and the learned A.P.P. for the respondent. We have perused the Record and Proceedings and in particular, the evidence of Karbhari (PW 9) and Balnath (PW 11), so also the evidence in the nature of the C.D.R. There is discovery of the incrementing articles at the instance of the accused. The findings recorded by the trial Court are sustainable.

6. In our view, therefore, no case is made out. The application stands rejected.

7. Registry to send back the Record and Proceedings to the Sessions Court. Upon receipt of

the Record and Proceedings, the Sessions Court to prepare Paper Book and send it to this Court along with the Record and proceedings, as expeditiously as possible, however, within a period of three months from the date of receipt of the Record and Proceedings.

8. Liberty to mention for early hearing of the appeal upon receipt of the Paper Book.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]

kbp