

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

Criminal Application No. 3245 of 2016

District : Nanded

Shaymsunder s/o. Munjaji Bhokare,
Age : 48 years,
Occupation : Labour,
R/o. Navin Kautha,
Taluka & District : Nanded. .. Applicant.

versus

1. The State of Maharashtra.

2. The Police Sub-Inspector,
Police Station, Nanded (Rural),
Taluka & District : Nanded. .. Respondents.

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Ms. Maya R. Jamdhade, Advocate, for the applicant.

*Mr. S.D. Ghayal, Addl. Public Prosecutor, for
respondent nos.1 and 2.*

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CORAM : Smt. SADHANA S. JADHAV, J.

DATE : 11TH JULY 2016

ORAL ORDER:

Heard the learned Counsel for the applicant
and the learned Addl. Public Prosecutor for
respondent nos.1 and 2.

2. The applicant herein has been charge-sheeted

in Crime No. 60/2015 for the offences punishable under Sections 302, 201, read with Section 34 of the Indian Penal Code. The charge-sheet is filed on 18.05.2015 and the applicant is in jail since 06.03.2015. Pursuant to filing of the charge-sheet, Sessions Case No. 56/2015 is registered against the applicant (original accused no.3) and other co-accused, which is pending before the Addl. Sessions Judge, Nanded.

3. Perused the supplementary statement of the complainant dated 06.03.2015. It is alleged that the brother of the complainant had illicit relation with one Jaymala. The complainant was aware that her brother had been addicted to liquor. That, the complainant's brother was receiving calls on his cellphone but he was not talking on the cellphone before the complainant. On 04.03.2015, he had returned home under the influence of liquor. He was getting calls on his cellphone. However, he was not receiving the same. At about 09.30 p.m., he had left the house. On 5th March 2015, the dead body of her brother was found in an abandoned condition near Mama Chowk. An offence punishable under Section 302 of the Indian Penal Code was registered against unknown person.

4. On 6th March 2015, the supplementary statement of the complainant was recorded. She has

disclosed that on 04.03.2015, her brother had been to the house of Jaymala. At that time, brother of Jaymala, namely, Ravi Bhokare had seen Darbarsing. That, Ravi Bhokare had gone to the house and mounted assault upon Darbarsing and thereafter, the present applicant, who happens to be the father of Ravi Bhokare, had assisted him in carrying the dead body in an auto-rickshaw and thrown it on the road in an abandoned condition.

5. The learned Counsel for the applicant rightly submits that even at this stage, it cannot be said that applicant has committed an offence punishable under Section 302 of the Indian Penal code. At the most, an offence punishable under Section 201 of the Indian Penal code could be attracted to the present applicant. The substantive sentence prescribed for the offence punishable under Section 201 of the Indian Penal Code is of the term which may extend to 3 years with fine. The applicant has been in jail for more than one year and hence, the applicant deserves to be enlarged on bail.

6. The learned Counsel for the applicant fairly submits that the applicant herein would not reside in village Navin Kautha, Taluka & District Nanded, till completion of the trial.

7. Hence, the Application is allowed.

(a) The applicant be enlarged on bail, pending trial in Sessions Case No. 56/2015, before the Addl. Sessions Judge, Nanded, on his furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties of the like amount. Bail be furnished before the Sessions Court at Nanded.

(b) The applicant shall not reside at village Navin Kautha till conclusion of the trial.

(c) The applicant shall not try to contact any of the prosecution witnesses and he shall not try to tamper with the prosecution evidence in any manner whatsoever.

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

(Smt. SADHANA S. JADHAV)
JUDGE

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