

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

Criminal Application No. 3699 of 2016

District : Dhule

Suryakant Abhiman Patil,
Age : 51 years,
Occupation : Agriculture,
R/o. Kalmadi,
Taluka : Shindkheda,
District : Dhule.

.. Applicant.

versus

The State of Maharashtra
(Through PI,
Nardana Police Station,
Taluka Shindkheda,
District Dhule).

.. Respondent.

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Mr. P.S. Paranjape, Advocate, for the applicant.

*Mr. N.B. Patil, Addl. Public Prosecutor, for
the respondent.*

*Mr. Joydeep Chatterji, Advocate, for the
original complainant.*

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CORAM : A.M. BADAR, J.

DATE : 27TH SEPTEMBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 44/2015
registered with Nardana Police Station, District

Dhule, for offences punishable under Sections 302, 326, 279, 337, 338, 504, 506, read with Section 34 of the Indian Penal Code, by this application, is seeking his release on bail after filing of the charge-sheet.

2. Heard the learned Counsel appearing for the applicant / accused. By taking me through the entire charge-sheet, the learned Counsel for the applicant argued that it is clear from the case of the prosecution that accused persons and the prosecuting party were not sharing cordial relation. In fact there was dispute between them over cultivating the field as well as sharing water of the well which has resulted in civil proceedings between them. The learned Counsel further argued that case of the prosecution also shows that in fact the electric meter was fitted in the well situated in field Gut No. 343 on 22.07.2015 itself in presence of all accused persons and without protest by them. Therefore, according to the learned Counsel for the applicant, the motive attributed to accused persons in committing the crime is totally washed off.

3. The learned Counsel for the applicant further argued that the only evidence against the present applicant is in the form of eye witness account given by Gokul Patil as well as witness Devman Patil, apart from seizure of knife from the

applicant. The learned Counsel further argued that genesis of the prosecution case is totally demolished when version of these two witnesses is compared with the medical evidence available on record in the form of post mortem report as well as injury certificate issued by Sudha Hospital at Dhule. The learned Counsel argued that though both these witnesses are stating that there was forceful dash of motorcycle by the present applicant to the deceased causing his fall, the medical evidence is not supporting this contention of eye witnesses. The learned Counsel therefore submits that in every probability, the present applicant is implicated in false case because of previous enmity between the parties. The learned Counsel further argued that though the deceased was taking treatment at Sudha Hospital from 23.07.2015 to 29.07.2015, his dying declaration was not recorded. According to the learned Counsel for the applicant, recovery of a knife is of no consequence as no medical opinion is sought by the prosecution to point out that the injury on the victim was possible by the seized weapon. With this, the learned Counsel for the applicant argued that after conclusion of the investigation, the applicant needs to be enlarged on bail.

4. The learned Addl. Public Prosecutor as well as the learned Counsel for the informant opposed the application.

5. Perused the charge-sheet including the FIR lodged by Gokul Patil and statement of eye witness Devman Patil. It is not in dispute that the prosecuting party as well as the accused party were not sharing cordial relation because of dispute over cultivation of the field and sharing of water from the well. On this backdrop, the informant and eye witness Devman Patil have unanimously stated that on 23.07.2015, when they were proceeding towards their field by motorcycle, they saw that the present applicant had given a forceful dash of his motorcycle to Murlidhar Dhondur Patil (since deceased). It is reflected from statement of both these eye witnesses that then the present applicant gave a blow of some sharp edged weapon on abdomen of Murlidhar Patil causing bleeding injury to Murlidhar Patil. It is further averred that then the applicant attempted to give dash of motorcycle to them also.

6. The charge-sheet reveals that injured Murlidhar Patil was then admitted to Sudha Hospital at Dhule where he succumbed to injuries on 29.07.2015. Injury certificate of Murlidhar Patil shows the history of stabbing him. The injury certificate reflects that Murlidhar Patil had suffered incised wound over his abdomen which is stated to be dangerous to life by the resident Medical Officer of Sudha Hospital.

7. Post mortem report shows that Murlidhar Patil died due to Septicemia due to internal injuries suffered by him. Post mortem report shows that there was sutured wound over midline of abdomen of the dead body with 32 intact stapler pinstitches in situ. Post mortem report also reflects that the deceased was having multiple abrasions over forehead, abrasion over right nostril as well as multiple abrasions over back below right scapular region. Prima facie these abrasions shows that the deceased had suffered a fall and these abrasions can be co-related to the dash given by the motorcycle. Even otherwise it is trite that when there is diversion between ocular evidence and the medical evidence, ocular evidence shall always prevail. Therefore, even if it is construed that there are no injuries corresponding to the dash given by the motorcycle, the same is of no consequence at this stage. The other part of the statement of both eye witnesses is to the effect that there was a stab given by the applicant to Murlidhar Patil on his abdomen which is well corroborated by the injury certificate as well as the post mortem report. Therefore, at this stage, it cannot be said that the statements of both these witnesses are of no consequence and the applicant is falsely implicated in the crime in question.

8. Version of both witnesses is also

corroborated by recovery of a knife at the instance of the present applicant.

9. It is seen that on earlier occasion, the applicant had moved similar application before this Court which was subsequently withdrawn. The present application cannot be entertained on that ground also.

10. In the result, no case for bail is made out. The Application is accordingly rejected.

(A.M. BADAR)
JUDGE

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