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

CRIMINAL APPLICATION NO.3886 OF 2016

Laxman @ Laxmanrao s/o
Dhondiba Mundhe,
Age: 41 years, occu: Agri.,
R/o. Margalwadi, Tq. Gangakhed,
Dist. Parbhani ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr R. N. Dhorde, Senior Advocate i/b Mr V. N. Shelke
and Mr V. R. Dhorde, Advocates for applicant;
Mr S. J. Salgare, Addl. Public Prosecutor for
respondent
Mr R.S. Deshmukh, Advocate to assist A.P.P.

WITH
CRIMINAL APPLICATION NO.4288 OF 2016
IN
CRIMINAL APPLICATION NO.3886 OF 2016

Kushabai w/o Dashrath Mundhe,
Age: 65 years, occu: Household,
R/o. Village Margalwadi,
Tq. Gangakhed, Dist. Parbhani ..APPLICANT

VERSUS

Laxman alias Laxmanrao s/o
Dhondiba Mundhe,
Age: 41 years, occu: Agriculture,
R/o. Village Margalwadi,
Tq. Gangakhed, Dist. Parbhani
& anr. ..RESPONDENTS

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Mr R.S. Deshmukh, Advocate for applicant;
Mr R. N. Dhorde, Senior Advocate i/b Mr V. N. Shelke
and Mr V. R. Dhorde, Advocates for respondent No. 1;
Mr S. J. Salgare, Addl. Public Prosecutor for
respondent/State

CORAM : N.W. SAMBRE, J.

DATE : 3rd August, 2016

ORDER :

For the reasons stated in Criminal Application No. 4288 of 2016 seeking permission to assist the prosecution, same stands allowed.

2. The applicant is seeking regular bail in Crime No. 215 of 2015 registered with Gangakhed Police Station, District Parbhani, for the offence punishable under Sections 302, 143, 147, 148, 149, 109, 201 of the Indian Penal Code.

3. The prosecution story as appears from the contents of the first information report is that one Ram @ Balu, son of Dashrath and complainant Kushabai, contested the Grampanchayat election against the panel set up by sitting Zilla Parishad member, applicant-accused Laxman Mundhe. Out of the said

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political enmity, Ram was murdered in the intervening night of 26th and 27th July, 2015, which incident was witnessed by complainant Kushabai, mother of deceased Ram, Bhagwat and Dhanraj, cousin brothers of deceased Ram.

4. Mr. Dhorde, learned Senior Counsel, apart from invoking principle of parity, would submit that the only role attributed to the applicant upon perusal of the entire material on record, is of instigation. He would submit that there is no active physical participation in the act of assault on the part of applicant. He would then submit that spot panchnama, visit of police to the place of deceased Ram, is earlier in point of time than that of registration of the offence, which is at 11'0 clock, which according to him, raises serious doubt as regards the incident in question. He would then submit that the applicant has hardly any criminal antecedents and holds immovable property within the jurisdiction, as such, there is hardly any likelihood that he will run away from the prosecution.

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5. While opposing the application, learned A.P.P., who is assisted by Mr. Deshmukh, learned Counsel for the complainant, would submit that the applicant is main brain behind the execution of crime in question, as it is not in dispute that the applicant is sitting member of Zilla Parishad and is very much active in the said area. He would submit that the applicant enjoys strong political power in the said vicinity and there is every likelihood that the applicant will tamper with the prosecution evidence or influence the witnesses. Learned A.P.P., apart from above, would submit that if the applicant is released, there is every likelihood of prolonging the trial in the case, when there is strong *prima facie* evidence is available, particularly of three eye witnesses. He would then submit that the application be rejected.

6. It is no doubt that all other accused persons, but for the present applicant, have been ordered to be released on bail by learned Additional

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Sessions Judge, Gangakhed on 19th November, 2015, with condition that they shall not enter the limit of Gangakhed Taluka until further orders of the Court. So far as the role attributed to the present applicant as compared to other accused persons, who are already released, appears to be that of physical active participation in the matter of assault on deceased Ram. No doubt, deceased Ram died because of 30 injuries, of which more than 10 injuries were serious in nature, however, role attributed to the applicant in the crime in question is that of instigation by uttering words and no physical participation.

7. Apart from above, the case as has been mentioned by learned Additional Sessions Judge, which was tested by this Court in the application for cancellation of bail moved by the prosecution and complainant, was found to be germane. The said reasons can be very much available to the present applicant for the purpose of seeking cancellation of bail by invoking principle of parity.

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8. In my opinion, in absence of any criminal antecedents against the applicant, role attributed to him in the commission of crime, entitles him to be released on bail. As such, the following order:-

(a) The applicant be released on bail, in connection with Crime No. 215 of 2015 registered with Gangakhed Police Station, District Parbhani, for the offence punishable under Sections 302, 143, 147, 148, 149, 109, 201 of the Indian Penal Code, upon furnishing P.R. bond of Rs.50,000/- with two sureties in the like amount.

(b) The applicant shall not enter the jurisdiction of Parbhani District for three months from today and thereafter until further orders, he shall not enter Gangakhed Taluka but for attending Court.

(c) The applicant shall not tamper with the prosecution evidence or influence the witnesses.

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9. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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