

Criminal Application No. 3952 of 2016

.. Applicant.

.. Respondent.

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DATE : 24TH OCTOBER 2016

The applicant / accused in Crime No. I-267/2015 registered with M.I.D.C. Police Station, Ahmednagar, for offences punishable under Sections 302 & 201 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, who argued that there are no circumstances to implicate the applicant in the crime in question.

3. The learned Addl. Public Prosecutor opposed the application by contending that post mortem report shows several injuries on the dead body and the present applicant has actively aided co-accused in commission of crime of murder of Laxman s/o. Vasant Gaikwad over the issue of seeking labour work.

4. I have carefully considered the rival submissions and perused the charge-sheet. Dead body of Laxman Gaikwad, resident of Bolhegaon, was found lying in the field by Kundalik Todmal and therefore he lodged a report resulting in registration of the crime in question. The case of the prosecution is based on circumstantial evidence. According to the prosecution, Popat Bhor had asked co-accused Sandip s/o. Bhanudas Gunjal to do work of digging. Said Sandip Gunjal mentioned his charges for this labour work at Rs. 2,400/-. The work was then entrusted to Laxman Gaikwad (since deceased) by accepting his offer to do the said work at Rs. 800/-. This according to the prosecution, is motive for committing murder of Laxman Gaikwad by co-accused

Sandip Gunjal and the present applicant.

5. Statement of wife of deceased Laxman Gaikwad shows that on 19.10.2015, Laxman Gaikwad accompanied by his brother-in-law Arun had gone for executing work of Popat Bhor. However, Laxman Gaikwad did not return. Her brother Arun Fulare disclosed Sarubai - widow of Laxman Gaikwad that Laxman had gone to meet co-accused Sandip Gunjal. Similar is statement of Arun Fulare who had been with the deceased on that day. He stated that after finishing work of digging, they both return up to Bolhegaon bifurcation and thereafter deceased Laxman Gaikwad left his company for meeting co-accused Sandip Gunjal.

6. According to the prosecution case, on the basis of confessional statement of the present applicant, his blood stained T-shirt apart from other clothes were seized. It appears that though the said T-shirt was subjected to forensic examination and report thereof is still awaited.

7. It is well settled that in cases based on circumstantial evidence, the prosecution is required to demonstrate the entire chain of circumstances leading to the sole hypothesis of guilt of the accused and each circumstance is required to be established firmly.

8. Considering the nature of evidence available against the present applicant, as stated in foregoing paras, his pre-trial detention is not warranted.

9. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, be released on bail on his executing P.R. Bond in the sum of Rs. 25,000/- and on furnishing one or more solvent sureties of the like amount.

(c) As conditions of this order, the applicant / accused shall abide by the following directives :-

(i) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(ii) The applicant shall not tamper with the prosecution evidence in any manner and shall cooperate the learned trial Judge in expeditious disposal of the trial against him.

(5)

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(iii) The applicant shall not repeat commission of similar type of offences in future.

(d) The Application stands disposed of in the above terms.

(A.M. BADAR)
JUDGE

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