

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

Criminal Application No. 4176 of 2016

District : Ahmednagar

Anusaya w/o. Sanjay Bhutambare,
Age : 38 years,
Occupation : Agriculture,
R/o. Thakarwadi Panodi,
Taluka : Sangamner,
District : Ahmednagar. .. Applicant.

versus

The State of Maharashtra,
through Police Station In-charge,
Ashvi Police Station,
Taluka : Sangamner,
District : Ahmednagar. .. Respondent.

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Mr. V.Y. Bhide, Advocate, for the applicant.

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
the respondent.*

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With

Criminal Application No. 4338 of 2016

District : Ahmednagar

Haraku Bhima Kadale,
Age : 56 years,
Occupation : Agriculture &
Labour,
R/o. Thakarwadi, Panodi,
Taluka : Sangamner,
District : Ahmednagar. .. Applicant.

versus

The State of Maharashtra.

.. Respondent.

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Mr. R.K. Temkar, Advocate, for the applicant.

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 19TH AUGUST 2016

ORAL ORDER:

Applicants / accused in Crime No. I-37/2016, registered with Police Station, Ashvi, Taluka Sangamner, District Ahmednagar, for the offence punishable under Section 302, read with Section 34 of the Indian Penal Code, by these applications, are praying for releasing them on bail.

2. Heard the learned Counsel appearing for applicants. They argued that the entire case of the prosecution is based on circumstantial evidence and there is no eye witness to the crime in question. According to the learned Counsel appearing for applicants, applicants are arrested on 13.06.2016 and the investigation is virtually over. Applicants are arrested only on the basis of suspicion.

3. The learned Addl. Public Prosecutor opposed the application by contending that the investigation is still going on and statements of witnesses are required to be recorded. The learned Addl. Public Prosecutor further argued that the Investigating Officer has requested for getting the call data record of cellphones of accused persons. Those are still awaited.

4. Perused papers of investigation. Prima facie, it is seen that Sanjay Bhutambare died homicidal death because of head injury. FIR came to be lodged by his son Sunil Bhutambare. During the course of investigation, the investigator has recorded statements of witnesses. Those statements indicates that deceased Sanjay Bhutambare was a mentally retarded person. His wife, Anusaya was in employment of applicant Haraku and they were having illicit relations. Papers of investigation reveals that both applicants were having motive to eliminate deceased Sanjay Bhutambare. It is seen that on the basis of confessional statements of applicants, clothes worn by them at the time of alleged offence were seized. Those seized clothes are being sent for chemical analysis. The Investigating Officer has requisitioned for call data record of cellphones of applicants. As such, it cannot be said that investigation is over.

5. Considering the fact that the case of the prosecution is based on circumstantial evidence and the investigation is going on, this is not a time at which request for releasing the applicants on bail can be considered.

6. Hence, both Applications are rejected.

(A.M. BADAR)
JUDGE

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