

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

Criminal Application No. 4311 of 2016

District : Aurangabad

Chandrakant s/o. Raju Shirke,
Age : 32 years,
Occupation : Labour,
R/o. Bhimnagar, Bhavsingpura,
Aurangabad.

.. Applicant.

versus

The State of Maharashtra
(Through Chhavani (Cantonment)
Police Station, Aurangabad.

.. Respondent.

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*Mr. Vijay B. Jogdand Patil, Advocate, for the
applicant.*

*Mrs. V.N. Patil (Jadhav), Addl. Public Prosecutor,
for the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 28TH SEPTEMBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 116/2016 registered with Chhavani (Cantonment) Police Station, Aurangabad, for offences punishable under Sections 302, 363, 364, 201, 120B, 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. In his submission, there is no legal evidence to connect the applicant with the crime in question.

3. The learned Addl. Public Prosecutor opposed the application by contending that the crime in question was committed because of illicit relations of deceased Altaf with first wife of main accused Mukesh Lahot who is a Corporator. The learned Addl. Public Prosecutor submitted that statements of Ajay Bachake and Vishal Netanrao shows complicity of the applicant in the crime in question.

4. On the last date of hearing, this Court has passed a specific order directing the learned Addl. Public Prosecutor to take instructions whether during the period of commission of the crime in question till disposal of the dead body, whether the applicant was having any cellphone and whether tower location of his cellphone is showing the same location which cellphones of other accused persons is showing. This was particularly so because according to the prosecution case, after committing murder of Altaf, accused persons took the dead body at a long distance to dispose it off at a secluded place. The charge-sheet contains call detail record and therefore it was an attempt to explore whether other accused persons and the present applicant were in company of

each other during that journey for disposal of the dead body. However, nothing concrete is coming from the side of the prosecution despite adjournment.

5. Perused the charge-sheet. According to the prosecution case, Altaf (since deceased) was associate of main accused Mukesh Lahot. Altaf developed intimacy with first wife of Mukesh Lahot, named Jyoti. This infuriated Mukesh Lahot and therefore he hatched a conspiracy to eliminate Altaf. According to the prosecution case, with the aid of the present applicant and other accused persons, main accused Mukesh Lahot abducted Altaf on 20.03.2016 from Bhavsingpura, Bhimnagar at Aurangabad, at about 09.00 to 09.30 p.m. by Scorpio vehicle of main accused Mukesh Lahot. Then he was killed. In a planned manner, then the dead body was disposed of in the dry water tank of closed Dhaba at Pahur village of Jalgaon District, as accused persons found that other places such as Daulatabad, Verul, Kannad and Chalisgaon are unsuitable for disposing of dead body because of watch by Police. According to the prosecution case, after commission of the crime, all these places were considered by accused persons as seen from CDR mapping of their cellphones. It was in this context, the direction was issued by this Court to the learned Addl. Public Prosecutor to ascertain tower location of cellphone of the present applicant during that period. According to the prosecution case, the present applicant was one of the associate

of main accused Mukesh Lahot in eliminating deceased Altaf.

6. The entire case of the prosecution is based on circumstantial evidence. To connect the applicant to the crime in question, the prosecution is relying on version of Ajay Bachake and Vishal Netanrao to show that the present applicant was with main accused Mukesh Lahot while committing murder and disposing of the dead body. Statement of Vishal Netanrao does not show that the present applicant was with main accused Mukesh Lahot at the time of abduction of deceased Altaf. Vishal Netanrao is stating that Mukesh Lahot, Santosh Narwade and other 2 - 3 persons abducted Altaf by Scorpio vehicle. Statement of Ajay Bachake recorded under Section 161 of the Cr.P.C. shows that he met main accused Mukesh Lahot, Santosh Narwade, Viraj Saudagar, Chandrakant Shirke (present applicant) and Sunny Rana at Bhavsingpura Road on 20.03.2016. Ajay Bachake further stated that by taking his cellphone, accused Mukesh Lahot and Santosh Narwade abused Altaf. Then all accused persons, as per version of Ajay Bachake, went to their houses and he also returned to his house. Statement under Section 164 of the Cr.P.C. of Ajay Bachake is making some improvement in his original version.

7. Apart from this, as stated by the learned Addl. Public Prosecutor, there is no other evidence

against the present applicant.

8. Considering the nature of evidence against the applicant, though offences alleged are serious, further pre-trial detention of the applicant is not warranted. Quality of evidence against the applicant is a relevant consideration for grant of bail.

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. 30,000/- and on furnishing one or more solvent sureties of the like amount.

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

(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.

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

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

(A.M. BADAR)
JUDGE

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