

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

Criminal Application No. 4668 of 2016

District : Osmanabad

Arjun s/o. Annasaheb Dhobale,
Age : 32 years,
Occupation : Agriculture,
R/o. Ter,
Taluka & District : Osmanabad. .. Applicant.

versus

1. The State of Maharashtra,
Through the Police Station,
Osmanabad (City),
District : Osmanabad.
2. Kashibai w/o. Shivaji Bukan,
Age : 55 years,
Occupation : Household,
R/o. Bukanwadi,
Taluka & District : Osmanabad. .. Respondents.

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Mr. G.J. Kore, Advocate, for the applicant.

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
respondent no.1.*

Mr. S.B. Choudhari, Advocate, for respondent no.2.

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CORAM : A.M. BADAR, J.

DATE : 18TH OCTOBER 2016

ORAL ORDER:

The applicant / accused in Crime No. M-

56/2016 registered with Osmanabad City Police Station, District Osmanabad, for offences punishable under Sections 302, 201, 203, 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 as well as the learned Addl. Public Prosecutor appearing for respondent no.1 / State and the learned Counsel appearing for respondent no.2 / original complainant.

3. The crime in question was registered on the basis of order passed by the learned Magistrate under Section 156(3) of the Cr.P.C. on complaint of Kashibai - mother of deceased Parmeshwar Bukan.

4. It is argued on behalf of the learned Addl. Public Prosecutor as well as the learned Counsel appearing for the original complainant, that the deceased was beaten brutally by accused persons including the present applicant with an allegation that he has illicit relations with a married woman from their family. Thereafter, Parmeshwar Bukan committed suicide and as such the applicant is not entitled for bail.

5. Perusal of the charge-sheet shows that death of Parmeshwar Bukan was because of coming under

wheels of a tanker bearing registration GJ-12/AY-8489 on 25.05.2015. Statement of driver Mukeshkumar Varma of the said tanker shows that when he was driving the tanker, one person came under wheel of the tanker and the tanker ran over him. It is not in statement of Mukeshkumar Varma, that seeing the approaching tanker, that person jumped under the wheel of the tanker and died.

6. Statements of witnesses are to the effect that on 25.05.2015, the applicant as well as co-accused had assaulted Parmeshwar Bukan (since deceased) in the field by alleging that he has illicit relations with a married woman from their family.

7. Prima facie there does not appear any nexus with the alleged beating and death of Parmeshwar Bukan. During trial, the prosecution will have to establish suicidal death in order to bring home the guilt by other evidence. Suffice to say that with such nature of evidence, further pre-trial detention of the applicant is not warranted.

8. 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. 20,000/- 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.

(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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