

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

Criminal Application No. 4674 of 2016

District : Osmanabad

Mohan s/o. Pema @ Prema Pawar,
Age : 42 years,
Occupation : Service,
R/o. Dudhgaon Pardhi Pidhi,
Taluka & District : Osmanabad.

.. Applicant.

versus

The State of Maharashtra,
Through Police Station,
Dhoki, District : Osmanabad.

.. Respondent.

.....

*Mr. Vivekanand B. Deshmukh, Advocate, for the
applicant.*

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

.....

CORAM : A.M. BADAR, J.

DATE : 1ST SEPTEMBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 133/2016, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, registered with Police Station, Dhoki, District Osmanabad, by this application, is seeking his release on bail.

2. Heard the learned Counsel appearing for the applicant / accused. He submits that necessary investigation of the crime in question is already over and considering the material on record, liberty of the applicant needs to be restored to him. It is averred that the applicant is in employment of Maharashtra State Electricity Distribution Company Ltd. as Lineman and at the relevant time, he was attending his duty.

3. The learned Addl. Public Prosecutor opposed the application by contending that papers of investigation shows that illicit liquor was being sold at Pardhi Vasti and as yet report of Chemical Analyzer in respect of viscera of the deceased is awaited. Therefore, the applicant is not entitled for bail.

4. Perused papers of investigation including the report lodged by Dinkar s/o. Rangnath Dhabekar - brother of deceased Satish Dhabekar. Allegations in the FIR are to the effect that when Satish had been to Pardhi Vasti for drinking liquor, present applicant Mohan Pawar and co-accused Shankar Pawar as well as Aashabai Pawar assaulted him after demanding outstanding amount towards the liquor consumed by Satish. In that assault, Satish succumbed to the injuries. The informant alleged that the incident is witnessed by Mogal Badshah Mullani and post event

happenings are also witnessed by other witnesses.

5. Perusal of the post mortem report does not show any injury on the person of deceased Satish. Statements of Mogal Basumiya Mullani and Munna Gulab Pathan are also relevant. They are disclosing how the incident in question took place.

6. Receipt of Chemical Analyzer's report will take its own time. Quality of evidence against the accused is one of the relevant consideration while granting bail to him. Along with deceased Satish, other prosecution witnesses had also consumed liquor at Pardhi Vasti. Nothing happened to them. Therefore, non-receipt of Chemical Analyzer's report is prima facie of no consequence.

7. Considering the nature of evidence against the present applicant, his further pre-trial detention 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. 15,000/- and on furnishing one or more solvent sureties of the like amount.

(c) 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.

(d) As a condition of this order, the applicant shall attend concerned Police Station as and when reasonably called by the Investigating Officer for the purpose of further investigation. The applicant shall cooperate the Investigating Officer in further investigation of the crime in question.

(e) 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, in the event of filing charge-sheet against him by the Investigating Officer.

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

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

(A.M. BADAR)
JUDGE

.....