

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

915 CRIMINAL APPLICATION NO. 4733 OF 2016

VINAYAK S/O GANPAT BHOR

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.P.Thorat, Advocate for Applicant.

Mrs. V.N.Patil (Jadhav), A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 30th AUGUST, 2016

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PER COURT :

1. Applicant/accused in Crime No. 190/2014 registered at City police station, Sangamner, Dist. Ahmednagar for the offences punishable u/ss 302,307,323,143,147,148,149,504,506 of the Indian Penal Code by this application is seeking his release on bail after filing of the charge sheet.

2. Heard learned counsel for the applicant. He argued that the applicant is behind bars since last 2 years. He further submitted that applicant's father died when he was of 2 years of age and his mother is suffering from ailment.

Learned counsel argued that the applicant belongs to Maratha community whereas rest of the accused persons are from Mali community. He submitted that the charge sheet itself is doubtful. Learned counsel, therefore, prays that as the applicant is not involved in the crime in question and as his mother is ill, he needs to be released on bail.

3. Learned counsel placed reliance on the Judgments in the case of Maulana Mohd. Amir Rashadi Vs. State of U.P. & Anr. reported in 2012 (1) SCC (Cri.) - 681, Sanjy Chandra Vs. Central Bureau of Investigation reported in 2012 CRI.L.J. - 702, State of Kerala Vs. Raneef reported in AIR 2011 Supreme Court - 340, Jayendra Saraswathi Swamigal Vs. State of Tamil Nadu reported in 2005 CRI.L.J. - 883, Smt. Akhtari Bi Vs. State of M.P. Reported in AIR 2001 Supreme Court - 1528, Asstt. Commr. Of Income Tax, New Delhi Vs. J.K.Synthetics Ltd. reported in AIR 2001 Supreme Court - 1531, Vivek Kumar Vs. State of U.P. Reported in 2000 CRI.L.J. - 2774, Laxmipat Parakh Vs. Bimla Devi Pun reported in 2000 CRI.L.J. - 2775, Eree Legal Aid Committee Vs. State of Bihar reported in 1982 CRI.L.C. - 499, Miss Harsh Sawhney Vs. Union Territory (Chandigarh Admn.) reported in AIR 1978 Supreme Court - 1016, The State of Rajasthan Vs. Balchand reported in AIR 1977 Supreme Court - 2447, Boby @ Ravikant Sharma Vs. State of U.P. Reported in 1999 CRI.L.J. - 2758, Chandresh Paswan Vs. State of U.P., & Ors., Anwar Ali Vs. State of U.P. Reported in 2000 CRI.L.J. - 3088, Jitenddra Vs. State of U.P. Reported in 2000 CRI.L.J. -

3087 to submit that the rule is to grant bail and at the pre-trial stage, presumption is regarding innocence of the accused.

4. Learned A.P.P. opposed the application by submitting that the crime in question is serious.

5. Perusal of the Charge sheet shows *prima facie* evidence against the present applicant for commission of murder of Suraj Kailas Jadhav. It is seen from the charge sheet that accused persons including the present applicant formed an unlawful assembly and in prosecution of common object of that assembly, they assaulted informant Nilesh Ramesh Dhole as well as Yogesh Ramesh Dhole and caused murder of Suraj Kailas Jadhav. So far as present applicant is concerned, charge sheet shows that he had given blow of an knife on the left side of chest of Suraj Kailas Jadhav. The averments are to the effect that the present applicant then assaulted Yogesh and informant Nilesh by means of blows of knife. Thus, there is *prima facie* evidence of commission of offence punishable either with death or life imprisonment and as such no case for bail is made out.

6. That apart, the charge sheet is seen to be filed on 14/11/2014. Thereafter the applicant had moved an application for bail vide Criminal Application No. 2311 of 2015. After elaborate hearing, learned counsel for the applicant then sought withdrawal of the said application as this Court was not inclined to grant bail to the applicant. In this view of the matter, present application is not

maintainable.

7. So far as ailment of mother of the applicant is concerned, from the papers annexed with the application itself shows that mother of the applicant had taken treatment at Suyash Multi Specialty Hospital, Sangamner and she is discharged from the said hospital on 13/08/2016. She had suffered Enteric fever. Considering the nature of ailment of the mother of applicant, who is already discharged from the hospital, present applicant is not entitled for bail on that count also.

8. In the result, application for bail stands rejected.

[A.M.BADAR, J.]