

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

**923 CRIMINAL APPLICATION NO. 4737 OF 2016
WITH
APPLN/4812/2016**

**RAJU S/O ASHOK RAUT
& ANR.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. R.S.Shinde & Mr. A.K.Bhosale,
Advocates for Applicants.

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

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CORAM : A.M.BADAR, J.

DATE : 16th SEPTEMBER, 2016

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PER COURT :

1. The applicants Raju s/o Ashok Raut and Mahesh Maroti Kadane, who are accused in Crime No. 27/2016 registered at Gangapur police station, Dist. Aurangabad for the offences punishable u/ss 364,302,201,120 (b) read with 34 of the Indian Penal Code, by these applications are seeking their release on bail after filing of the charge sheet.

2. Heard the learned counsels for the applicants. By drawing my attention to the charge sheet, they both argued that the case of the prosecution as against both these applicants is to the effect that they had destroyed the evidence of commission of offence despite knowing that the offence of murder of Anil Sharma has been committed. This offence, in submission of the learned counsels for the applicants, is bailable in nature and, therefore, further pre-trial detention of the applicants after filing of the charge sheet is not warranted.

3. The learned A.P.P. opposed the application by contending that the crime in question is of committing murder of Anil Sharma by hatching conspiracy and thereafter destroying the evidence of his murder by cutting his dead body in pieces and throwing it at distant places. The learned A.P.P. further argued that the applicant Raju Ashok Raut had cut the dead body of Anil Sharma into pieces, whereas the applicant Mahesh Maroti Kadane had disposed of the revolver of the deceased along with co-accused Sudam Khandagale. Hence, according to the learned A.P.P., both applications are liable to be rejected.

4. Perusal of the charge sheet and particularly column No. 15 thereof reflects the prosecution case as per the version of the Investigating Officer. According to the prosecution case, Anil Sharma [since deceased] was friend of accused No. 1 Santosh Patil More. Deceased Anil Sharma had given amount of ₹ 20 Lakh to accused No. 1 Santosh Patil More for construction of house, but that amount was never

refunded. Therefore, deceased Anil Sharama was insisting accused No. 1 Santosh Patil More to refund that amount. Apart from that, it is further averred by the prosecution that the deceased Anil Sharma was having illicit relations with accused No. 1 Santosh Patil More. Therefore, accused No. 1 Santosh Patil More was having strong motive to eliminate deceased Anil Sharma. Therefore, he hatched conspiracy, under which accused No. 2 Santosh @ Bapu Jagtap brought deceased Anil Sharma to the hotel Nakshatra owned by accused No. 1 Santosh Patil More on 17/01/2016 on the pretext of celebrating birth day of accused No. 1 Santosh Patil More. There, according to the prosecution case, accused No. 1 Santosh Patil More fired 3 bullets in the head of deceased Anil Sharma at point blank range causing his instantaneous death. Even as per the charge sheet, role of the present applicants in the crime in question came thereafter. Both the applicants are employees of accused No. 1 Santosh Patil More and they were working in hotel Nakshatra. According to the prosecution case, after committing murder of Anil Sharma, under the directions of accused No. 1 Santosh Patil More, applicant Raju s/o Ashok Raut severed the head of dead body by cutting it in 2 pieces. So far as the applicant Mahesh Maroti Kadane is concerned, according to the prosecution case, accused No. 1 Santosh Patil More had delivered a polythene bag containing revolver of deceased Anil Sharma to accused No. 6 Sudam Khandagale for disposing it of. According to the prosecution case, applicant Mahesh Maroti Kadane along with accused No. 6 Sudam Khandagale threw the revolver of the deceased Anil Sharma in Salim Ali lake at

Aurangabad.

5. During the course of investigation, on the basis of the confessional statement of the applicant/accused Raju Ashok Raut, Sattur and knife used for cutting the dead body and for cutting the shirt of the deceased came to be seized. Similarly, on the basis of the confessional statement of the applicant Mahesh Maroti Kadane, Tata Sumo vehicle used for transporting revolver of the deceased came to be seized.

6. One of the main accused i.e. accused No. 2 Santosh @ Bapu Jagtap, who according to the prosecution case, was a part of conspiracy to eliminate deceased Anil Sharma is released on bail by this Court.

7. So far as present applicants are concerned, *prima facie*, it is seen that the offence alleged against them is punishable u/s 201 of the Indian Penal Code, which is bailable offence. In this view of the matter, further pre-trial detention of both the applicants is not warranted. There is no apprehension on behalf of the prosecution that these 2 applicants will not be available for trial in future. Hence, the following order.

(i) Both the application are allowed.

(ii) The applicants Raju s/o Ashok Raut and Mahesh Maroti Kadane in Crime No. 27/2016 registered at Gangapur police station, Dist. Aurangabad for the offences punishable u/ss 364,302,201,120 (b) read with 34 of the Indian Penal

Code be released on bail on executing P.R. Bond of ₹ 20,000/- [Rupees Twenty Thousand] each and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicants shall not tamper the evidence of the prosecution.

(v) The applicants shall co-operate the trial Court in expeditious disposal of the trial against the present applicants.

[A.M.BADAR, J.]