

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

CRIMINAL APPLICATION NO. 5322 OF 2016

Santosh s/o. Jagannath Narwade .. Applicant
Age. 25 years, Occ. Labour,
R/o. Sindon, Tq. & Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Mr.A.K.Bhosale, Advocate for the applicant.
Mr.S.D.Ghayal, APP for respondent/State.

**CORAM : A.M. BADAR,J.
DATED : 06.10.2016**

P.C. :-

1. The applicant/accused in Crime No. 216 of 2015 registered with Chikalthana Police Station, Aurangabad, for the offence punishable under section 302, 201 read with 34 of the Indian Penal Code, by this application, is seeking his release on bail.

2. Heard learned Counsel for the applicant/accused. By taking me through charge-sheet, he argued that there is no complete chain of circumstances pointing any finger towards applicant/accused in murder of his step-brother Raju Narode.

3. Learned A.P.P. opposed the application by contending that there was strong motive with the applicant and co-accused to finish off Raju Narode. Learned A.P.P. further argued that statements of witnesses go to show that police dog tracked present applicant and co-accused as well as the place where blood-stained clothes were concealed.

4. Perused the charge-sheet. The F.I.R. lodged by widow-Babita shows that her husband Raju Narode had been to the field located behind their house on 28.09.2015. At about 02.00 p.m. she came to know from her sister-in-law Sonali that her husband is lying dead in the field.

5. The case is based on circumstantial evidence. The main circumstance which is pressed in to service by the prosecution is dog tracking evidence. The statements of witnesses are to the effect that the police dog after smelling at the scene of occurrence tracked the present applicant as well as co-accused Jagannath, who was present there. Witness Sonali has stated that police dog was smelling the sack in which co-accused Jagannath had concealed blood-stained clothes, but on that day the blood-stained clothes could not be recovered.

6. It is well settled that evidence of tracking by

dog is a weakest piece of evidence.

7. So far as motive is concerned, according to prosecution case, minor mineral was found in the field owned by family and co-accused had sold that minor mineral for Rs.3-4 lakhs without giving share to deceased Raju Narode. He was, therefore, quarreling with accused persons. Even if this is considered to be a motive, evidence of motive furnishes one more additional link in the chain of circumstances. However, prima facie, the prosecution has to point out complete chain of circumstances pointing guilt of the accused and such circumstances should be inconsistent with hypothesis of innocence of the accused

8. The material against the applicant/accused as stated in foregoing paras does not require his further pre-trial detention in the crime in question. The apprehension of the prosecution that he may tamper prosecution evidence in the wake of filing of report of non-cognizable case, can be looked into by imposing proper condition on him. Therefore, the following order :-

O R D E R

- i) The application is allowed.

ii) Applicant/accused - Santosh s/o. Jagannath Narwade in Crime No. 216/2015, registered with Chikalthana Police Station, Dist. Aurangabad, for the offence punishable u/s 302, 201 r/w 34 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] and on furnishing surety in the like amount.

(iii)As a condition of this Order, the applicant 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 applicant shall not tamper the evidence of the prosecution.

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

[A.M. BADAR, J.]