

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5350 OF 2016

Jaising S/o Bhagchand Maher,
Age 25 years, Occu.: Agri.,
R/o. Wagla Maher Vasti,
Taluka Vaijapur, Dist. Aurangabad .. Applicant

Vs.

The State of Maharashtra
Through Shiur Police Station,
Tq. Vaijapur, Dist. Aurangabad .. Respondent

Mr. M.S. Karad, Advocate for the applicant
Mr. A.D. Namde, APP for the respondent/State
Mr. S.S. Ladda, Advocate to assist APP.

CORAM : A.S. CHANDURKAR, J.
DATE : 22/11/2016

ORAL ORDER :

Heard.

2. By the present application, accused no.4 in Crime no. 66 of 2016 registered at Shiur Police Station, Tq. Vaijapur, Dist. Aurangabad for offences punishable under Section 302, 201, 120-B of Indian Penal Code, seeks his release on bail, pursuant to his arrest on 13/5/2016.

3. According to the FIR, the brother of the informant namely, Poonam Ingle, was married with one Rekha on 1/4/2016. In the report, it has been stated that prior to the marriage, threats were received on the mobile of the informant as well as the mobile phone of his brother, that Poonam should not get married with Rekha. After the said marriage took place, Poonam and his wife had gone to the wife's place at Khaperkheda. On 5/5/2016, the informant was informed that Poonam had left for returning back, however, as he did not return home, the informant took search of Poonam. While taking search, it was informed that the body of Poonam was found near an agricultural field on 6/5/2016. According to the informant, on previous day, he had seen accused nos.1 and 2 sitting near the water filter. On that basis, aforesaid report came to be lodged. On completion of investigation, chargesheet has been filed and insofar as the present applicant who is the accused no.4 is concerned, he has been charged with regard to offence punishable under section 201 of the Indian Penal Code.

4. It is submitted by learned counsel for the applicant that based on the statement of another accused recorded under memorandum statement as per section 27 of the Indian Evidence Act, the present applicant has been implicated. The only role alleged is destruction of the mobile set of the deceased. There is nothing seized from the present applicant. Chargesheet has already been filed and considering the limited role assigned to the present applicant, it is submitted that he is entitled for his release on bail.

5. The application is opposed by learned Additional Public Prosecutor as well as learned counsel for the informant. They submit that the call-details of accused no.2 indicate that she had talk with the applicant. Similarly, the present applicant has destroyed the mobile set of the deceased. Therefore, considering the gravity of the offence, the Application deserves to be rejected.

6. Perused the FIR as well as the chargesheet. Insofar as the present applicant is concerned, the charge against him is under section 201 of the Indian

Penal Code. His name has been taken by another accused – Shankar, while recording memorandum statement under section 27 of the Indian Evidence Act. The call-details referred to by the prosecution, indicate some talk between the applicant and Rekha.

7. Considering the fact that applicant has been charged only under section 201 of the Indian Penal Code and considering the limited role attributed to him, coupled with the fact that the charge has been filed after completion of investigation, I am inclined to allow his application. Hence, the following order :-

ORDER

I) Criminal Application is allowed.

II) Applicant is directed to be released on bail in Crime no. 66 of 2016 registered at Shiur Police Station, Tq. Vaijapur, Dist. Aurangabad for the offences punishable under Section 302, 201, 120-B of Indian Penal Code, upon his furnishing P.R. bond of Rs.20,000/- (Rs. Twenty Thousand) with one surety in the like amount.

III) The applicant shall attend the Court of Sessions at Vaijapur, Dist. Aurangabad on 10th of every month and as per the directions of the Investigating Officer.

IV) The applicant shall not coerce the prosecution witnesses.

V) The applicant shall assist in completion of the trial.

8. By clarifying that the observations made in this order are only for the purposes of deciding the bail application, the Criminal Application stands allowed and disposed of accordingly.

[A.S. CHANDURKAR]
JUDGE

arp/