

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

CRIMINAL APPLICATION NO. 5435 OF 2016

Babdy s/o. Vishwas Kale .. Applicant
Age. 35 years, Occ. Agriculture,
R/o. Welu Road, Shrigonda, Tq. Shrigonda,
Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

Mr. Anil M. Gaikwad, Advocate for the applicant.
Mrs. P. V. Diggikar, A.P.P. for respondent/State.

**CORAM : A.M. BADAR, J.
DATED : 10.10.2016**

P.C. :-

1. The applicant/accused in Crime No. I-118 of 2016 registered with Shrigonda Police Station Dist. Ahmednagar, for offence punishable under section 302 read with section 34 of the Indian Penal Code, is seeking his release on bail after filing of charge-sheet.

2. Heard learned Counsel for the applicant/accused. He argued that except recovery after six months of a hammer, there is no evidence against the present applicant to implicate him in the crime in question.

3. Learned A.P.P. opposed the application by

contending that the case is based on circumstantial evidence. The applicant was having strong motive to eliminate Kartik Jagat as Kartik was cultivating field owned by family of present applicant. Learned A.P.P. further argued that the incident in question occurred in night hours and assault was by means of hammer. It was recovered at the instance of the applicant.

4. Perused the charge-sheet and considered the rival submissions.

5. Kartik Jagat- a lessee of agricultural land in possession of Subhash Dhorajkar (informant) died homicidal death on 21.03.2016. The cause of death is stated to be neurogenic shock due to head injury.

6. The F.I.R. lodged by informant - Subhash shows that there was an agreement to purchase field of father of present applicant, namely, Vishwas Soma Kale. The informant had paid an amount of Rs.7.67 lakhs out of a fixed consideration of Rs.16 lakhs and remaining amount was to be paid after receipt of necessary permission from the State Government. Statement of Sunita Jagat - widow of Jagat, shows that relatives of Vishwas Kale were insisting deceased Kartik to tell his master to pay balance amount of consideration. Deceased Kartik was in-

charge of cultivation of the field in question.

7. The F.I.R. as well as statement of Sunita Jagat shows that they pointed finger of suspicion at members of Kshirsagar family as well as members of family of owners of field, namely, Vishwas Kale. The incident in question took place on 21.03.2016. It hardly needs to be noted that a hammer is an article of daily use, which can be found as common article in rural house-hold. Recovery panchanama does not show that there were stains of blood on seized hammer. Considering nature of evidence against the present applicant, his further pre-trial detention is not warranted and therefore, the order :-

O R D E R

- i) The application is allowed.
- ii) Applicant/accused – Babdya s/o. Vishwas Kale, in Crime No. I-118 of 2016, registered with Shrigonda Police Station, Dist. Ahmednagar, for the offence punishable u/s 302 read with section 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 to co-operate the trial Court in the expeditious disposal of trial against him.

[A.M. BADAR, J.]