

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5559 OF 2016

Narayan S/o Trimbak Taral,
Age : 40 years, Occu.: Labour,
R/o : Kotnandra, Tq.: Sillod,
Dist. Aurangabad

.. Applicant
(Orig. Accused)

Vs.

The State of Maharashtra

.. Respondent

Mr. A.S. Barlota, Advocate for the applicant
Mr. V.S. Badakh, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.
DATE : 14/12/2016

ORAL ORDER :

Heard.

2. The applicant, who has been arrested on 10/5/2016, in connection with Crime no.I-74 of 2016 registered with Sillod Rural Police Station, Tq. Sillod, Dist. Aurangabad for the offences punishable under Sections 302, 201 r/w. 34 of the Indian Penal Code, seeks his release on bail.

3. As per the FIR lodged by the brother of one Gajanan Kakade, it has been stated that in January,

2016, said Gajanan alongwith Vilas Taral and the applicant had purchased a crane for digging wells in partnership. Sometime in the month of March, 2016, there was some dispute between the parties, which was subsequently settled. On 10/5/2016, the informant stated that one of the partners Vilas Taral, the brother of the applicant had committed suicide. When he went to the said place, he learnt that prior thereto, the present applicant, said Vilas Taral, Ganesh Nikam and Gajanan had gone for purchasing manure on the tractor of one Vilas Janjal. It was noticed that the tractor-trolley had some blood stains. Subsequently, the informant learnt that the body of Gajanan had been found with certain injuries. On that basis, the report came to be lodged. Pursuant thereto, the applicant came to be arrested.

4. It is submitted by learned counsel for the applicant that the case of the prosecution is based on circumstantial evidence and there is no direct eye witness. Statement of only one witness – Vilas Janjal indicates presence of applicant alongwith his brother – Vilas and Gajanan, when they were returning after

purchasing the manure. It is submitted that as per the post-mortem report, cause of death of Gajanan is asphyxia due to throttling. It is then submitted that even the brother of present applicant Vilas had died due to asphyxia on account of hanging on the same day. It is urged that the dispute between the partners had been settled in the month of March – 2016 and hence merely on the basis of recovery of stick from the applicant, he has been implicated. It is submitted that after completion of investigation, the chargesheet has been filed and the trial is yet to commence. In these circumstances, it is prayed that the applicant be released on bail.

5. Application is opposed by learned Additional Public Prosecutor by relying upon the police papers. It is submitted that there were witnesses to indicate presence of the applicant with deceased Gajanan on the day of the incident. As there were disputes between the partners and the applicant and the deceased were last seen together, it was clear that the applicant had played a role in the death of Gajanan. There were blood stains found on the tractor-trolley. There were certain

injuries on the body of Gajanan. It is therefore prayed that the application be rejected.

6. I have gone through the documents filed on record as well as the police papers. Case of the prosecution is presently based on circumstantial evidence. Statement of Vilas Janjal indicates presence of applicant with Vilas as well as Gajanan. Said Vilas was found dead on account of hanging on the same day. Only a stick has been recovered at the instance of the applicant. Considering the nature of evidence presently available on record, coupled with the fact that applicant is under arrest since 10/5/2016, I find that a case has been made out to enlarge the applicant on bail. Moreover, after completing the investigation, chargesheet has been filed. Since the family of the deceased and the applicant are from the same village, appropriate conditions can be imposed while granting bail.

7. Accordingly, the following order :-

ORDER

I) The applicant, who has been arrested pursuant

to Crime no.I-74 of 2016 registered with Sillod Rural Police Station, Tq. Sillod, Dist. Aurangabad for the offences punishable under Sections 302, 201 r/w. 34 of the Indian Penal Code, is directed to be released on bail, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

II) The applicant shall not enter the Tehsil Sillod, Dist. Aurangabad, till the completion of trial.

III) He shall co-operate with the Sessions Court during the trial and he shall not take any steps to coerce the prosecution witnesses.

8. By clarifying that observations made in the present order are only for deciding the bail Application, the same is accordingly allowed and disposed of.

[A.S. CHANDURKAR]
JUDGE

arp/