

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5635 OF 2016

Rohidas S/o Popat Jakhare,
Age : 27 years, Occu.: Education,
R/o Mogare, Tq. Igatpuri,
Dist. Nasik .. Applicant

Vs.

The State of Maharashtra,
Through Rajur Police Station,
Rajur, Dist. Ahmednagar .. Respondent

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

CORAM : A.S. CHANDURKAR, J.
DATE : 15/12/2016

ORAL ORDER :

Heard.

2. The applicant, who has been arrested on 2/6/2016 in connection with Crime no.I-37 of 2016 registered with Rajur Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 436, 452 of the Indian Penal Code, seeks his release on bail.

3. As per the FIR, the informant has stated that he was having close relations with the present

applicant, who was his friend since childhood. This relationship continued for considerable period. However, as the informant's father and other family members came to know of the same, the informant told the applicant to savour the relationship. Father of the informant had restrained the informant from meeting the applicant. It is further stated that on being objected by the aforesaid persons, the applicant went to the house of the informant and assaulted his mother and, thereafter, set her on fire.

4. It is submitted by learned counsel for the applicant that the case of the prosecution is based on circumstantial evidence. There is no eye witness to indicate the presence of the applicant near the house of the informant. It is submitted that immediately after the incident on 31/5/2016, a report was given that the informant's house had caught fire and the roof had fallen on the body of his mother, who had expired. Similar statement has been given on 1/6/2016. It is submitted that present report came to be lodged thereafter. It is further submitted that there is no motive attributed to the applicant in the aforesaid crime and hence as the investigation is now complete,

further detention of the applicant is not warranted.

5. The application is opposed by learned Additional Public Prosecutor by relying upon the police papers. He submitted that the statements recorded indicate presence of the applicant in the village on the afternoon of 31/5/2016. As the informant's father had objected to the relationship between the applicant and his son, the applicant had assaulted the informant's mother. A wooden stick was seized at the instance of the applicant. It is therefore submitted that the application deserves to be rejected.

6. I have perused the FIR and other documents filed on record. The initial report dated 31/5/2016 indicates that the informant and his father were not present at home when their house had caught fire. The roof of the house and the other articles were seen fallen down, as a result of the said fire. The statements of witnesses, as recorded merely refers to the presence of the applicant in the village at that point of time. Though in the post-mortem report, certain injuries are seen on the body of the deceased, if the same is read alongwith report dated 31/5/2016,

the injuries are also possible due to the fall of part of the roof on the head of the deceased.

7. Considering the fact that case of the prosecution is based on circumstantial evidence and after completion of the investigation, the chargesheet has been filed, I do not find further detention of the applicant warranted in the present case.

8. In view of aforesaid, the following order :-

I) The applicant, who is arrested in connection with crime no.I-37 of 2016 registered with Rajur Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 436, 452 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 limits of Akole Tehsil, District - Ahmednagar, till the completion of the trial.

III) The applicant shall not take any steps to influence the prosecution witnesses and shall co-operate in the conclusion of the trial.

9. Observations made in this order are only for deciding the bail Application.

10. Criminal Application is accordingly allowed and disposed of.

Sd/-

[A.S. CHANDURKAR]

JUDGE

arp/