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

CRIMINAL APPLICATION NO. 5769 OF 2016

Viki s/o Deelip Berkile,
Age: 18 years, Occu: Now Private Service,
R/o Nalegaon, Tq. Chakur,
District Latur

..APPLICANT

VERSUS

1. The State of Maharashtra
2. The Investigation Officer,
Police Station Chakur,
Tq. Chakur, Dist. Latur

..RESPONDENTS

Mr D. R. Jayabhar, Advocate holding for Mr Layak S. Shaikh, Advocate for applicant;
Mr A. D. Namde, Addl. Public Prosecutor for respondents

CORAM : A.S. CHANDURKAR, J.

DATE : 14th December, 2016

ORAL ORDER :

Applicant, who has been arrested on 18th May, 2016 in connection with Crime No. 106 of 2016 registered at Chakur Police Station, Tq. Chakur, Dist. Latur for the offences punishable under Sections 302, 120B read with Section 34 of the Indian Penal Code, seeks his release on bail.

2. As per the first information report, it has been stated that father of the informant was sleeping at his house at night on 4th April, 2016

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and on next morning the informant noticed that his father had been assaulted with a stone on his head. Father of the informant succumbed to the injuries resulting in registration of aforesaid crime. The applicant who is accused No. 3 came to be arrested on 18th May, 2016.

3. It is submitted by the learned Counsel for the applicant that the assault in question is attributed to accused No.1 and present applicant was merely in the company of said accused. Reference is made to the statements recorded to indicate that no overt act is attributed to the present applicant. He submits that in absence of any eye witness to the crime, merely on the basis of presence of the applicant at the place, he has been implicated. Statements of the Hotel owner and the waiter have been recorded on 9th June, 2016 after considerable time. It is submitted that since chargesheet has been filed and investigation is complete, the applicant deserves to be released on bail.

4. The application is opposed by the learned Addl. Public Prosecutor by relying upon the first information report and the chargesheet. It is submitted that in view of the provisions of Section 120B of the Indian Penal Code and the statements of the Hotel owner and the waiter, no case has been made out to enlarge the

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applicant on bail. It is submitted that the material on record is sufficient to deny relief to the applicant.

5. I have perused the first information report as well as the chargesheet. The statements of Satish Kore and Rohit Rawate indicate that the assault by a stone on head of the deceased was by accused No. 1. Insofar as present accused is concerned, he had accompanied the accused No. 1 on the motorcycle. As per the statements of the Hotel owner recorded on 9th June, 2016, the present applicant alongwith the other accused had come to his Bar on 4th April, 2016 for having drinks. This statement refers to the incident that had occurred prior to two months. The stone in question has been recovered at the instance of accused No.1. Considering the fact that after completion of investigation the chargesheet is filed on 13th June, 2016 and in view of the nature of material on record, I find that a case is made out by the applicant for his release on bail. Hence, the following order:

The applicant is directed to be released on bail pursuant to his arrest in crime No. 106 of 2016 registered at Chakur Police Station, Tq. Chakur, Dist. Latur for the offences punishable under Sections 302, 120B read with Section 34 of the Indian Penal Code on furnishing P.R. Bond of Rs. 15,000/- with one surety in the like amount.

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The applicant shall attend the Court of Sessions, Latur on 23rd December, 2016 and thereafter as per the directions of the Sessions Court.

The applicant shall not take any steps to influence the prosecution witnesses.

Observations made in this order are only for the purpose of deciding the bail application. Same is allowed and disposed of.

[A.S. CHANDURKAR]
JUDGE

sjk