

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5831 OF 2016

Amol Subhash Gaikwad

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

Mr. V.R. Autade, Advocate for the applicant

Mr. A.V. Deshmukh, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.

DATE : 23/12/2016

ORAL ORDER :

Heard.

2. The applicant seeks his release on bail pursuant to his arrest in Crime no.I-172 of 2015 registered at Sonai Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 324, 323, 504, 506 read with 34 of the Indian Penal Code and Section 4/25 of the Arms Act.

3. As per the FIR dated 01/10/2015, the informant has reported that his cousin brother – Prakash had expired at about 10.00 am on account of illness. When preparation for his funeral was going on, his cousin

sister, her husband and her son - the present applicant had come there. The informant's cousin sister had sought to raise earlier dispute on which the informant told her that they would talk subsequently. As some abuses were exchanged, present applicant assaulted the wife of the informant - Anita. The brother of the informant Shravan as well as his cousin brother Babasaheb were also assaulted. Said Anita succumbed to the injuries.

4. It is submitted by learned counsel for the applicant that chargesheet has been filed and trial has commenced. It is submitted that though earlier application came to be withdrawn on 7/4/2016, as the report of the chemical analyzer has not yet been received, same was a changed circumstance and therefore the applicant is entitled to maintain the present application. It is submitted that as the entire investigation is now complete and there is no likelihood of said evidence being tampered, applicant deserves to be released on bail.

5. The Application is opposed by learned Additional Public Prosecutor by relying upon the

chargesheet. He has referred to the statements of the witnesses as well as the injuries sustained by the deceased. It is therefore submitted that Application deserves to be rejected.

6. Perused the chargesheet. Statements of various eye witnesses indicate the overt act attributed to the applicant of assaulting the deceased and the brother of the informant with a knife. The post-mortem report indicates various injuries suffered by the victim resulting in her death. *Prima facie*, considering the statements of the aforesaid witnesses, I do not find that any case has been made out to enlarge the applicant on bail.

7. By clarifying that the observations made in the present order are only for deciding the bail Application, the same stands rejected.

[A.S. CHANDURKAR]
JUDGE

arp/