

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

CRIMINAL APPLICATION NO. 5912 OF 2015

Shriram s/o Bhagwan Mankari (Mate),
R/o Wajar (Bk.), Tq. Jintur,
Dist. Parbhani

...Applicant

versus

The State of Maharashtra

...Respondent

.....
Mr. P. P. More, Advocate for applicant
Mr. U. S. Mote, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 20th JANUARY, 2016

ORAL ORDER :

The applicant is seeking regular bail in Crime No. 62 of 2015 registered with Mantha Police Station, Dist. Jalna for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code.

2. The applicant came to be arrested pursuant to the complaint dated 16/06/2015 filed by Police Officer alleging that the dead body of one Dnyandeo in the field of Pandharinath was found.

3. The investigation in the matter is complete and charge sheet is already filed. The investigation has lead to the material piece

of evidence against the statement of wife of applicant under Section 164 of Code of Criminal Procedure and injuries reflected in the post mortem report.

4. Learned Counsel for the applicant submits that but for the statement under Section 164 of Code of Criminal Procedure of applicant's wife, there is hardly any material on the record to connect the applicant in crime in question. He would submit that statement of wife of applicant under Section 164 of Code of Criminal Procedure, if taken to be true speaks of an attempt of rape by deceased on her which was witnessed by the applicant and as such, the applicant has assaulted the deceased out of grave and sudden provocation. He would then urge that apart from above, there is hardly any piece of evidence on record to connect the applicant to crime in question. He would then urge that applicant's wife is an illiterate lady and has not understood gravity of the statement given to the police which was extracted from her.

5. Learned A.P.P. opposed the application on the ground that there is *prima facie* evidence against the applicant, particularly statement of applicant's wife under Section 164 of Code of Criminal Procedure co-relating with the injury in the post mortem report.

6. Having bestowed my thought to the submissions made, it is to be noted that the investigation in the matter is already complete and charge sheet is filed. If the statement of applicant's wife under Section 164 of Code of Criminal Procedure is perused and read in its entirety, speaks of an offence punishable under Section 376 of Indian Penal Code committed by the deceased, which was resisted by the applicant.

7. Apart from above, the fact remains that further custodial detention of the applicant is not necessary. As such, the application is allowed. Hence, the following order.

The applicant be released on bail, in connection with Crime No.62 of 2015 registered with Mantha Police Station, Dist. Jalna for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, upon executing P.R. bond of Rs.15,000/- with one surety in the like amount.

8. The application is allowed in above terms.

[N.W. SAMBRE, J.]