

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

905 CRIMINAL APPLICATION NO. 6122 OF 2016

MADHAV GANPATI RAJEGORE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.K.Kadam, Advocate for Applicant.

Mr. R.B.Bagul, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

[VACATION JUDGE]

DATE : 11th, NOVEMBER 2016

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PER COURT :

1. Applicant/accused in Crime No. 110/2016 registered at Ardhapur police station, District Nanded for the offences punishable U/ss 302,364,201,120 (B) of the Indian Penal Code, by this application is seeking his release on bail.

2. Heard learned counsel for applicant/accused. He argued that there is no iota of evidence against present

applicant and the charge sheet does not reflect any material against him.

3. Learned A.P.P. opposed the application by contending that there is continuous enmity between the deceased and present applicant as well as co-accused because of elections of Gram Panchayat. Learned A.P.P. pointed out an application moved by the deceased with the Superintendent of Police seeking police protection by naming present applicant amongst others.

4. Perused the charge sheet. According to the prosecution case, on 06/06/2016, Keshav Sakharam Rajegore died homicidal death because of Asphyxia due to manual strangulation. Charge sheet reveals that there are 2 groups in village Shelgaon, one headed by accused No. 1 Shivaji Rajegore and other headed by deceased Keshav Rajegore. Accused No. 1 Shivaji Rajegore is stated to be uncle of deceased Keshav Rajegore.

5. According to the prosecution case, accused persons abducted deceased Keshav Rajegore in the evening on

06/06/2016 and thereafter he was done to death. On 07/06/2016, dead body of deceased Keshav Rajegore was found.

6. Statement of Bhagwan Rajegore shows that he had seen accused No. 4 Bhagwan Rajegore and 3 unknown persons abducting deceased Keshav Rajegore in a white coloured 4 wheeler vehicle. Bhagwan Rajegore is resident of village Shelgaon, so also present applicant. Witness Bhagwan Rajegore had not named present applicant as one of the members of the team of accused persons, who abducted the deceased.

7. Perusal of the charge sheet does not show any recovery at the instance of present applicant and this fact is not disputed by learned A.P.P.

8. On 25/03/2013, deceased Keshav Rajegore had applied to the Superintendent of Police for police protection by stating that 5 persons including present applicant may cause harm to his life. According to the prosecution case, present applicant was one of the persons who was threatening the

deceased. Except this application dated 25/03/2013, there is no tangible evidence to connect present applicant to the crime in question. Motive only furnishes additional link to the chain of circumstantial evidence. For proving the offence, each and every circumstance is required to be established firmly and the cumulative effect of proved circumstances must result in sole hypothesis of the guilt of accused. Viewed from this angle, no *prima facie* case for the offences punishable u/ss 302 and 364 of the Indian Penal Code is seen against present applicant. Charge for conspiracy can be proved by indirect evidence, but there is nothing to infer conspiracy so far as present applicant is concerned. In this view of the matter, further pre-trial detention of present applicant is not warranted. Hence, the following order.

- (i) The application is allowed.
- (ii) Applicant Madhav s/o Ganpati Rajegore in Crime No. 110/2016 registered at Ardhapur police station, District Nanded for the offences punishable U/ss 302,364,201,120 (B) of the Indian Penal Code be released on bail on executing P.R. Bond of ₹ 20,000/- [Rupees Twenty Thousand] and on

furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicant shall not tamper the evidence of the prosecution.

9. Criminal Application stands disposed of in the above terms.

[A.M.BADAR, J.]
[VACATION JUDGE]