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

CRIMINAL APPLICATION NO. 6430 OF 2016

Haraku Bhima Kadale,
Age: 56 years, Occu: Agri. and Labour,
R/o Thakarwadi, Panodi, Tq. Sangamner,
Dist. Ahmednagar ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr R. K. Temkar, Advocate for applicant;
Mr S. P. Deshmukh, Addl. Public Prosecutor for respondent

WITH

CRIMINAL APPLICATION NO. 6493 OF 2016

Anusaya w/o Sanjay Bhutambare,
Age: 38 years, Occu: Agriculture,
R/o Thakarwadi Panodi, Tq. Sangamner,
Dist. Ahmednagar ..APPLICANT

VERSUS

The State of Maharashtra,
through Police Station In-charge, Ashvi PS,
Tal- Sangamner, Dist. Ahmednagar ..RESPONDENT

Mr V. Y. Bhide, Advocate for applicant;
Mr S. P. Deshmukh, Addl. Public Prosecutor for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 20th December, 2016

ORAL ORDER :

Both the applicants, who have been arrested on 13th June, 2016 in connection with Crime No. I-37 of 2016 registered at Ashvi Police Station, Tq. Sangamner, Dist. Ahmednagar for the offence punishable under

(2)

Section 302 read with Section 34 of the Indian Penal Code, seek their release on bail.

2. As per the first information report dated 11th June, 2016, the informant had reported that his father Sanjay was found dead with head injuries in agricultural field. The report accordingly came to be lodged against unknown person. Present applicants are thereafter arrested on suspicion. After completing the investigation, chargesheet has been filed on 8th September, 2016. As per the prosecution, the accused no.2 Anusaya – wife of deceased was having illicit relations with accused no.1 – Haraku and hence said Sanjay had been murdered.

3. It is submitted by the learned Counsel for the applicants that on perusal of the chargesheet, it can be seen that there is no material to connect the present applicants with crime in question. The statements of some relatives had been recorded on the day of the incident. The case of the prosecution has been sought to be improved by recording supplementary statements. It is submitted that in these statements recorded on 21st August, 2016, it has been stated that on 10th June, 2016, accused no.2 Anusaya had informed the brother of the deceased that she had illicit relations with accused no.1 and at that point of time it was decided to eliminate Sanjay. It is submitted that these statements recorded after more than two months are after considerable time. The clothes of the applicants though seized, do not have any blood stains. No recoveries were effected from the applicants. There is no witness, who had last

(3)

seen accused no.1 with the deceased. It is, therefore submitted that in the light of aforesaid and as the investigation is complete, the applicants deserve to be released.

4. The application is opposed by the learned Addl. Public Prosecutor by relying upon police papers. It is submitted that as per the supplementary statements of relatives recorded on 21st August, 2016, the applicants had reason to do away with the deceased. There was motive on the part of the applicants in killing the deceased. It is, therefore submitted that considering the seriousness of the offence, applications deserve to be rejected.

5. I have perused the chargesheet placed on record. It is to be noted that initially offence was registered against unknown person. Present applicants were arrested on 13th June, 2016 on suspicion. There is no statement of any witness to indicate that accused no.1 was last seen in the company of the deceased. There are no recoveries effected from either of the applicants and the clothes seized did not indicate blood stains. The supplementary statements recorded on 21st August, 2016 attribute knowledge to brother of the deceased - Ashok that accused no.2 had informed about her illicit relations. This knowledge is attributed to be prior to two months. On a prima facie, consideration of the aforesaid material and as the chargesheet has been filed after completing the investigation, further detention of the applicants is not warranted.

(4)

6. In view of aforesaid, the applicants who have been arrested in connection with Crime No. I-37 of 2016 registered at Ashvi Police Station, Tq. Sangamner, Dist. Ahmednagar for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, are directed to be released on bail on furnishing P.R. Bond of Rs. 15,000/- each, with one surety in the like amount.

The applicants shall attend the Court of learned Sessions Judge, Sangamner on 9th January, 2017 and thereafter as per the directions of the learned Sessions Judge.

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

The observations made in this order are only for deciding the present application. Same is allowed and disposed of.

(A.S. CHANDURKAR, J.)

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