

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

Criminal Application No. 6800 of 2015

Mansing @ Janu S/o. Prabhu Rathod. .. **Applicant.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. S.A. Ambad, Advocate, for the applicant.

Shri. K.N. Lokhande, Additional Public Prosecutor, for the respondent.

CORAM: T.V. NALAWADE, J.

DATE : 4th JANUARY 2016

ORDER:

1) The application is filed for bail. Both sides are heard. Previous application of the present applicant bearing No.1789 of 2015 is rejected by this Court on merits by order dated 20-4-2015. Learned counsel for the applicant submitted that the case is part heard and in view of nature of evidence which is likely to be given there is no possibility of conviction and so the applicant is entitled to get bail.

2) In the previous order this Court has discussed the material collected against the present applicant. FIR is given by brother of the deceased. There is allegation against the applicant that he committed murder of his wife by using weapon like axe. The daughter of the deceased is eye witness. There is evidence of recovery of weapon and which can be used under section 27 of the Evidence Act. Further the murder is committed inside the matrimonial house and so provisions of sections 106 and 114 of the Evidence Act can be used against the applicant. The only circumstance on which the learned counsel for the applicant is relying is so called statement of Dayanand Ade recorded under section 164 of the Code of Criminal Procedure. It is upto the prosecution to decide whether this witness was really eye witness and whether he needs to be examined or not. The prosecution may not examine this witness and in that case it cannot be said that there are conflicting versions. The learned Additional Public Prosecutor submitted that in the statement of Dayanand also there is name of present applicant though it is mentioned differently as Janu.

3) In view of these circumstances this Court holds that there is no change in circumstance. The order of the trial Court shows that the trial Court is making attempt to expedite the case and the case is made part heard. This Court has already considered possibility of tampering of prosecution witnesses at the hands of the present applicant. The witnesses are close relatives.

4) In the result, the application is rejected.

Sd/-
(T.V. NALAWADE, J.)

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