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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.467 OF 2016

Prakash Prabhakar Mhatre and Ors.	..Applicants.
V/s.	
State of Maharashtra	..Respondent.

Mr.Gaurav Parkar for applicants.

Mr.Arfa Sait, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 4TH JULY, 2016

P.C. :-

1. Applicant Prakash Mhatre is accused No.5, applicant Alankar is accused No.4 whereas applicant Shridas is accused No.6 in the Crime No.17/2016 for offence punishable under section 302 read with 34 of the Indian Penal Code registered with Poynad Police Station, District Raigad at the instance of Naresh Sudaram Patil. Deceased Sagar Patil is the son of deceased Naresh Patil. By this application, applicants / accused for praying for anticipatory bail.

2. Heard the learned counsel for applicants.

According to the learned counsel for applicants, there is no iota of evidence to connect applicants with the crime in question. The facts reflected from the F.I.R. is contradictory from the version in the F.I.R. itself.

3. The learned APP opposed the application by contending that the entire case is based on circumstantial evidence. The learned APP argued that applicant Prakash Mhtre had not paid the salary of Sagar Patil (since deceased) for two years and, therefore, Sagar Patil was killed at his instance by accused persons. The learned APP further argued that the medical opinion is also sought. During the investigation, it is seen that accused No.1 Paresh had talked with Prakash Mhatre after the incident in question.

4. Perused the case diary. It is not in dispute that on 3rd February, 2016, Sagar Patil died. According to the prosecution version, death is homicidal whereas according to the accused persons he died because of fall from the terrace of the house.

5. Perusal of the F.I.R. will show that in the F.I.R.

lodged after one month the informant father had only suspected the role of present applicants by stating that deceased Sagar Patil was in employment of applicant Prakash Mhatre and said Prakash had not paid salary for two years to Sagar Patil (since deceased). However, in the opening para of the F.I.R. itself, the informant had disclosed that deceased Sagar Patil after passing ITI examination was working in Chorgundi.

6. The papers of investigation shows that on 3rd February, 2016 a wet party was arranged on the terrace of house of Chandrakant Patil at Penjari. From statement of Dr. Suhas Mhatre, it is seen that co-accused had taken Sagar Patil in injured condition to said Dr.Suhash Mhatre. After examining Sagar Patil, Dr.Suhas Mhatre told co-accused to take him to hospital at Alibag. Upon that accused No.1 Paresh made a telephone call to accused No.5 / applicant Prakash Mhatre and asked him to come with vehicle. Thereafter, as seen from the statement of Dr.Suhash Mhatre, applicant No.5 Prakash Mhatre came there with a four wheeler vehicle and Sagar Patil was then taken to Civil Hospital, Alibag where he was declared dead. Medical opinion regarding injuries suffered by the

deceased is conflicting, as such the prosecution cannot take advantage of such conflicting opinion.

7. Considering this nature of evidence against present applicants, who were not even present at the spot of the incident where wet party had taken place, their liberty needs to be secured and, therefore, the order :-

- (i) In the event of their arrest, Applicants / accused in Crime No.17/2016 for offence punishable under section 302 read with 34 of the Indian Penal Code registered with Poynad Police Station, District Raigad at the instance of Naresh Sudaram Patil they be released on bail on executing P.R. bond in the sum of Rs.5,000/ each with one or more surety in the like amount by each of them;
- (ii) As a condition of this order, applicants / accused shall attend Poynad Police Station, District Raigad on 17th July, 2016 between 11.00 a.m. to 1.00 p.m. and they shall co-operate with the Investigating Officer;
- (iii) Applicants / accused shall not directly or indirectly make

any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;

- (iv) Applicants / accused shall co-operate for expeditious disposal of the trial;
- (v) Applicants / accused shall not commit an offence similar to the offence of which they are accused or suspected of commission;
- (vi) The application is disposed of accordingly.

(A.M.BADAR, J.)