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

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO.169 OF 2016**

Sandip @ Digambar Mahadeo Pisal ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Vikram Chavan with Mr.V.Mohite and Mrs.Sheetal Thakur for the applicant.

Mr.Deepak Thakery, APP for respondent-State.

**CORAM : A.M.BADAR, J.**

**DATED : 29TH JUNE, 2016**

**P.C. :-**

1. The applicant in Crime No.117/2015 for offences punishable under sections 302, 201, 363, 365 read with 34 of the Indian Penal Code, registered with Khandala Police Station, Satara by this application is praying for releasing him on bail.

2. Heard the learned counsel for the applicant / accused. By pointing out the conclusive part of the charge-sheet, the learned counsel for the argued that the role attributed to the present applicant is only of taking the Maruti

Ertiga car for its sale by Pune-Bangalore Highway. The learned counsel further argued that nothing was recovered from the present applicant nor the present applicant was aware of the commission of any crime in respect of the vehicle.

3. As against this, the learned APP argued that at the instance of the present applicant, Maruti Ertiga car was stolen and delivered to him for selling it. The learned APP further argued that the applicant had destroyed evidence of murder committed.

4. Perused the charge-sheet. The recitals of the charge-sheet shows that Maruti Ertiga Car bearing registration No.MH-12-KN-1165 was handed over to the present applicant by co-accused and the present applicant drove that car for selling via Pune-Bangalore Highway.

5. Perusal of the charge-sheet shows that informant Bhausahab Dattatraya Khomane was in the business of hiring cars. Deceased Laxman Jadhav was the driver of Maruti Ertiga car. After taking that car on hire for three days on 13<sup>th</sup> June, 2015, co-accused again hired that car from the informant for

taking it to Goa. Laxman Jadhav (since deceased) was the driver on that car. According to the prosecution case, subsequently, dead body of Laxman Jadhav was found in burnt condition at Umbrez on 20<sup>th</sup> June, 2015.

6. The car in question was found on 17<sup>th</sup> June, 2015 by witness Babu Asmane. His statement shows that the said car was found unattended parked outside his garage vide seizure panchanama of the same date, the car was seized.

7. There is attempted recovery resorting to section 27 of the Evidence Act at the instance of the present applicant / accused. The learned APP relied on the memorandum statement of the applicant / accused in order demonstrate that the applicant / accused was well aware about the stains of blood in the car and that he had taken out the number plate of the car and destroyed evidence of the commission of crime and this can be found in the alleged recovery statement of the present applicant / accused recorded by police on 29<sup>th</sup> June, 2015. Section 25 of the Evidence Act makes such statement inadmissible. What is admissible is discovery of the fact in consequence of information provided by the accused. Nothing

was recovered at the instance of the present applicant vide this panchanama recorded as per section 27 of the Evidence Act, which is nothing but confession made to a police officer.

8. Except this, nothing can be pointed out by the learned APP which will incriminate the present applicant in the crime in question.

9. Considering the nature of material available against the present applicant / accused though the allegations are serious, the applicant deserves to be released on bail. Hence the order :-

- (i) The applicant / accused in in Crime No.117/2015 for offences punishable under sections 302, 201, 363, 365 read with 34 of the Indian Penal Code registered with Khandala Police Station, Satara be released on bail on executing P.R. Bond in the sum of Rs.10,000/- with one or more surety in the like amount;
- (ii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against applicant

so as to dissuade him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;

- (iii) The applicant / accused shall inform his latest place of residence and cell number after his release and continue to inform the change in residence or cell number, if any, from time to time to the Investigating Officer of the concerned police station and on filing the charge-sheet to the concerned Court;
- (iv) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (v) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (vi) The application is disposed of accordingly.

**(A.M.BADAR, J.)**