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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.720 OF 2016

Bira Manu Kolpe	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Rohan Nahar, a/w Mr. Praful Soni, a/w Mr. Adwait Bhande, i/by Mangesh M. Deshmukh, for the Applicant.
Mrs. Veera Shinde, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 28th JULY, 2016.

P.C. :

1. The applicant/accused, in Crime No.292/2015, for the offence punishable under section 302, 323, 504, 506, of the Indian Penal Code, registered with Police Station, Yawat, at the instance of Laxman Dattu Karande, by this application is seeking his release on bail, after filing of the chargesheet.

2. Heard the learned counsel appearing for the applicant/accused. He argued that the chargesheet would reveal that Dattatraya Karande and his son Laxman had been to the house of applicant for questioning him and the incident in question, happened upon a sudden quarrel. The learned counsel argued that this is a case of single

blow and as such it cannot be said that the applicant, who is a farmer by occupation had committed murder by intentionally and knowingly causing death of Dattatraya.

3. The learned APP opposed the application by arguing that there is enough evidence to show complicity of the applicant in the offence punishable with either death or life imprisonment. She argued that there are eye witnesses to the incident and corroborating evidence in the nature of recovery of weapons as well as seizure of clothes and injury certificate of the informant.

4. Perused the chargesheet. According to prosecution case, the present applicant had given hand loan of Rs.5,000/- to the deceased for the purpose of starting brick kiln. The applicant had been to the house of the deceased for demanding back the amount so lent. The F.I.R. shows that the applicant is near relative of the prosecuting party. According to prosecution case, at the time of visit of the applicant to the house of deceased at about 12.00 noon, the deceased Dattatraya was not present at the house. The applicant demanded money from his wife Changuna and for that reason abused her and assaulted her. Thereafter in the evening hours, incident of the afternoon was disclosed to informant Laxman Karade and his father Dattatraya (since deceased). They both then went to the house of the present applicant to question him regarding

the incident of afternoon. At that time according to prosecution case, the applicant started giving abuses to informant Laxman and his father Dattu Karande. Thereafter the applicant has started assaulting Dattu Karande and the informant tried to intervene and separate the applicant. At that time, according to prosecution case, the applicant took out the knife and gave blow thereof on the person of Dattu Karande.

5. The postmortem report shows that Dattatraya Karande died homicidal death.

6. Apart from mother and son of the informant, the incident has also witnessed by other witnesses including Atul Madane. The statement of Atul Madane goes to show that there was altercation between Dattu Karande and Laxman Karade on one side and the present applicant Bira Kolpe on the other side. The chargesheet reveals that deceased Dattatraya and son Laxman Karade had been to the house of the present applicant for questioning him in respect of incident which took place in the afternoon. It is in this context, the statement of Atul Madale reflecting altercations assumes importance.

7. Statements of eye witnesses, so also postmortem report shows that deceased Dattu Karande had suffered only one incise wound caused by the informant. Prima facie it is seen that the incident of causing stab injury was preceded by an incident of altercation between

prosecuting party as well as the present applicant. In such situation, prima facie it cannot be said that a single blow was given by the applicant with requisite intention of causing death or with knowledge that such act on his part would cause death of the injured.

8. In this view of the matter, pre-trial detention of the present applicant, who is agriculturist by occupation having no criminal antecedents is not warranted. Hence, the following order:-

Order

- I) The application is allowed.
- II) The applicant arrested in connection with above offence, be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on his furnishing surety in the like amount.
- III) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) The applicant shall attend the trial scrupulously and shall co-operate the trial Court in expeditious disposal of the case.
- V) The applicant shall not tamper with the prosecution evidence in any manner.
- VI) The applicant shall not repeat commission of similar offences in future.

[A. M. BADAR, J.]