

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 783 OF 2016

Nagre Balu Murlidhar

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Harshad Palwe, Advocate i/by Pranita Sonawane for the Applicant.

Mrs. Veera Shinde, A.P.P. for the Respondent- State.

CORAM : A. M. BADAR, J.

DATE : 01st JULY, 2016

P.C. :

1 Applicant/accused in Crime No. 38 of 2015 for the offences punishable under sections 302, 363, 364 r/w. 34 of the Indian Penal Code and under section 135 of the Maharashtra Police Act, registered with Satpur Police Station, Dist. Nashik at the instance of informant - Vaibhav Sudhir Mohite, by this application is praying for releasing him on bail.

2 Heard the learned counsel appearing for Applicant/accused. By taking me through the entire chargesheet, the learned counsel for the applicant argued that the applicant - Balu Murlidhar Nagre is the owner of the Maruti Omni Van. The role attributed to him in the crime in question is only driving

the car/van owned by him. Learned counsel further argued that deceased-Amol Mohite was having criminal background and as several offences were registered against him, in every probability he might have killed by some of his opponents. Learned counsel further argued that the applicant/accused is entitled to bail as, prima facie, no offence under section 302 is attributed to him in the crime in question.

3 I have also heard the learned APP for the State. She argued that complicity of the present applicant/accused is well established even in the offence punishable under section 302 of the Indian Penal Code, as the role attributed to him can be seen from the statement of the informant. Learned APP points out that even forensic evidence supports the prosecution case.

4 Perused the chargesheet. Vaibhav Sudhir Mohite is the informant. He is brother of deceased-Amol Sudhir Mohite. He is the witness to the abduction of his brother - Amol S. Mohite (since deceased) by the present applicant as well as by the co-accused. Recitals in promptly lodged FIR by the informant goes to show that when the present applicant was occupying the driving seat of the van, co-accused-Deepak and Roshan had abducted the informant's brother-Amol and forcibly put him in that van. Statement of the informant-Vaibhav goes to show that he chased and attempted to stop the

van but the present applicant who was in the driving seat, hurriedly drove that van in a speed towards direction of village-Pimpalgaon. The informant then attempted to chase and stopped that van by another vehicle but his attempt proved to be futile. The FIR shows that at the time of abduction of Amol, who was subsequently found murdered, both co-accused were armed with sharp edged weapon. With such evidence on record, prima facie, it cannot be said that the present applicant was just innocent driver of the van with no role to play in the alleged offence.

5 On the next day, dead body of Amol was found on katcha road in the field of one Ashok Pawar in Vasali Shivar. Perusal of the postmortem report shows that the deceased was done to death with 24 anti-mortem injuries all over his body, caused with sharp edged weapon. At the instance of the present applicant, the van came to be seized. Seat covers of that van owned by the present applicant were having blood of the deceased, as seen from the report of the Serologist. Weapons of the offence were recovered at the instance of the present applicant. Those weapons are also stained with blood of the deceased as seen from the report of the Serologist.

6 Chargesheet indicates that the deceased was in custody of the present applicant and the co-accused. After abduction he was murdered soon. The time gap between the

time when deceased-Amol was lastly seen alive in the company of accused persons and the time when he was found dead is so small that in all probabilities he is murdered none-else but by the co-accused as well as the present applicant, who had abducted him. Considering this nature of evidence against the present applicant, he cannot be released on bail.

7 In the result, the bail application is rejected.

(A. M. BADAR, J.)

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