

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 1305 OF 2016

Maula Abdulla Mulla

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Kedar J. Patil Advocate for Applicant.

Mr. Y. M. Nakhwa APP for the State.

**CORAM : SMT. SADHANA S. JADHAV, J.**

**DATED : 29<sup>th</sup> NOVEMBER, 2016.**

**PC :**

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 22/01/2016 in crime no. 5 of 2016 registered at M.I.D.C. Kupwad Police Station. Investigation is completed and charge-sheet is filed against the applicant for offence punishable under sections 302, 143, 144, 147, 148, 149, 120 (B) of the Indian Penal Code and under section 4 r/w 25 & 27 of the Indian Arms Act.

2) It is the case of the prosecution that on 20/01/2016, Ramesh Sarode lodged a report at the police station alleging therein that his son Sajjan was studying in Chintamanrao Commerce College, Sangli in 12<sup>th</sup> standard. That

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on 19/01/2016, at about 8.00 a.m., Sajan had left the house for distributing invitation card for the marriage of daughter of one Mahesh Dombé. He had returned at about 7.30 p.m. He then left the house and did not return home. On the next day i.e. on 20/01/2016, Bhimrao Sarode and Rohit Sarode asked Ramesh to accompany them. They had taken him to Bharat Spinning Mills. There, the dead body of Sajan was seen. It was clear that Sajan has died a homicidal death. On the basis of the said report, crime no. 5 of 2016 was registered at M.I.D.C. Kupwad Police Station against unknown person.

3) In the course of investigation, Investigating Officer had recorded the statement of Pravin Yadav who was attached to M.I.D.C. Kupwad Police Station. He had disclosed to the police that on 19/01/2016, there was a social gathering in R. P. Patil High School and he was posted there to control Law and Order situation. That at about 8.00 p.m., he had seen history-sheeter Gajanan Gavali and his associates, Bandy Chinchwade, Hanmant Kamble and 9 to 10 other persons who were witnessing the social gathering. Police constable had suspected foul play as the said boys were history-sheeters. He had also seen Sajan Sarode and Suhail Jamadar witnessing the social gathering. It is clear that applicant was seen at the social gathering from

where Sajan found to be missing. There are similar statements of another police constable who has stated that at relevant time, Gajanan Gavali and the present applicant were consuming alcohol just outside the said college where there was social gathering. Rakesh Chougule had disclosed that he had also seen the deceased along with Suhail Jamadar and thereafter, Sajan had left in the company of Suhail Jamadar near Bharat Spinning Mill.

4) The compilation of the charge-sheet would show that the statement of the police constable Nitin More would clearly show that on 19/01/2016, applicant Maula Mulla and the other co-accused were present at R. P. Patil High School as well as there is statement of another police constable Dhananjay Chavan and both had categorically stated that applicant was in the company of co-accused as well as the juvenile in conflict with law. He had also seen the deceased Sajan Sarode along with juvenile and therefore, it is clear that applicant was involved in the said offence.

5) The learned counsel for the applicant submits that there is no incriminating material against the present applicant and therefore, applicant deserves to be enlarged on bail.

6) The learned APP has submitted that applicant has criminal antecedents.

- 7) The learned counsel for the applicant has placed on record the Judgment in Sessions Case No. 52 of 2011. Upon perusal of the Judgment, it appears that in the said case, prosecution had withheld the evidence of eye witnesses for the reasons best known to them and therefore, accused were acquitted.
- 8) The learned APP has further submitted that there is sufficient incriminating material against the present applicant and he does not deserve to be enlarged on bail.
- 9) Upon consideration of the papers of investigation and the material on record, applicant does not deserve to be enlarged on bail.
- 10) Application being sans merits, stands rejected.

**(SMT. SADHANA S. JADHAV, J.)**