

(1)

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

CRIMINAL APPLICATION NO. 197 OF 2017

Balu Bhika Mendhe,
Age: 50 years, Occu: Agri.,
R/o A/p. Kalas, Tq. Parner,
Dist. Ahmednagar

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr N. C. Garud, Advocate for applicant;
Mr A. D. Namde, Addl. Public Prosecutor for respondent

CORAM : N. W. SAMBRE, J.

DATE : 14th February, 2017

ORAL ORDER

Heard.

2. By the present application under Section 439 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.I-162 of 2016, registered with Parner police station, Tq. Parner, Dist. Ahmednagar, for offences punishable under Sections 302, 120-B read with Section 34 of the Indian Penal Code.

3. The applicant came to be arrested on 29th June, 2016.

(2)

4. It is the case of the prosecution that one Babaji Ramchandra Mendhe and the present applicant were close relatives. The present applicant owns a motorcycle but was unable to drive the same and as such, deceased Babaji used to drive the said motorcycle and present applicant used to be a pillion rider.

5. It is then claimed that said Babaji was murdered and as he was with present applicant for some time on the day of the incident, the applicant is added as one of the co-accused in commission of the crime in question.

6. The investigation in the matter is over and the charge-sheet is also filed.

7. Perused the statements of witnesses Vijay Ramdas Shirole, Somnath Gadge, tyre puncture repair shop owner one Bashir and other witnesses. The case of the prosecution cannot be inferred to be that of deceased last seen with the present applicant, particularly when the record depicts that after the present applicant left the company of deceased Babaji, deceased Babaji was with other two co-accused, who after consuming some eatables, are alleged to have assaulted him.

8. In absence of any incriminating material so as to prima facie infer involvement of the applicant in commission of the crime in question with some motive, in my opinion, further detention of the applicant is not warranted.

(3)

9. In view thereof, the application succeeds. Hence, following order :-

The applicant be released on bail, in connection with C.R. No.I-162 of 2016, registered with Parner police station, Tq. Parner, Dist. Ahmednagar, for offences punishable under Sections 302, 120-B read with Section 34 of the Indian Penal Code, on furnishing P.R. Bond of Rs.15,000/- with one or two sureties for the like amount.

The applicant shall not take any steps to influence the prosecution witnesses or tamper with evidence.

Criminal Application stands allowed in above terms.

(N. W. SAMBRE, J.)

amj