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

CRIMINAL APPLICATION NO. 250 OF 2017

Hariprasad Kalpesh Kolkar,
Age: 33 years, Occ: Business,
R/o. Koli Samaj No.2, Vijapur Road,
Saiphul, Solapur. ..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station
Tuljapur, Dist. Osmanabad. ..RESPONDENT

Mr S.J. Salunke, Advocate for applicant;
Mr S.N. Morampalle, Addl. Public Prosecutor for
respondent

CORAM : N.W. SAMBRE, J.

DATE : 1st FEBRUARY, 2017

ORAL ORDER :

In Crime No.246 of 2015, registered with Tuljapur Police Station, District Osmanabad, for offence punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code, the applicant, who was arrested on 7th August, 2016, is seeking regular bail.

2. Amongst other grounds, a ground is raised

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that the applicant is impleaded as accused based on circumstantial evidence. According to Mr. Salunke, learned Counsel for the applicant, there are no criminal antecedents, investigation in the matter is over, charge sheet is already filed and as such, the applicant is entitled to be released on bail.

3. He would invite attention of this Court to the statements of two witnesses namely Rohit Jadhav and Rahul Dombale so as to substantiate his contention that even if testimony of these witnesses since accepted as face value, still no case of involvement of the applicant in the crime in question is made out. According to him, the applicant, as such, is entitled for bail.

4. While opposing the claim, learned Additional Public Prosecutor relied upon the statements of witnesses Vijaya Kawade and Avinash Dubale so as to claim that the applicant is involved in the crime in question.

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5. What could be gathered from the available material on record is, the entire investigation against present applicant on naming him as accused in the crime in question is one Shivraj was found to be murdered body was located at mine. It is then to be noted that the role attributed to the applicant is that of member of group, who has taken contract of killing said Shivraj at the behest of accused No.1 Mandakini, who was step mother of said Shivraj. There was dispute between Shivraj and Mandakini on sharing benefits which are to be due and receivable pursuant to death of her husband and father of deceased Shivraj from the Maharashtra State Road Transport Corporation after his death. As such, Mandakini claimed to have given contract for killing Shivraj to present applicant and other co-accused.

6. From the material available on record as is already observed herein above that the case is based on circumstantial evidence, there is hardly any criminal circumstance or material so as to

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remotely connect the present applicant in the crime in question.

7. The evidence of witnesses who are named herein above are not connecting in any manner whatsoever to the present applicant to the crime in question.

8. In view thereof, in my opinion, the applicant is entitled to be released on bail. As such, following order is passed:-

(i) The applicant be released on bail, in connection with Crime No.246 of 2015, registered with Tuljapur Police Station, District Osmanabad, for offence punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code, on furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.

(ii) The applicant shall not influence the prosecution witnesses or tamper with evidence.

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(iii) Two consecutive absence of the applicant before the Court below during trial shall entail the said Court to initiate proceedings for cancellation of bail.

9. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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