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

CRIMINAL APPLICATION NO. 1021 OF 2017

Rahul s/o Baban Suryawanshi,
Age: 30 years, Occu: Agriculture,
R/o. Hanwatkhedra, Taluka – Jintur,
District Parbhani

..APPLICANT

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Charthana, Police Station,
Charthana, Taluka-Jintur,
District Parbhani

..RESPONDENT

Mr S. S. Rathi, Advocate for applicant;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 7th March, 2017

ORAL ORDER

Heard.

2. By this application under Section 439 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.30 of 2016, registered with Charthana Police Station, Tq. Jintur, Dist Parbhani, for offences punishable under Sections 302, 307, 120-B and 342 read with Section 34 of the Indian Penal Code.

3. The bail of the applicant is opposed by the learned Addl. Public Prosecutor on the ground that eye-witnesses Limbabai and Champabai

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including that of the complainant have specifically named the applicant with a specific role in commission of the crime in question and as there are fair chances of his conviction.

4. It appears that after filing of the charge-sheet in the present crime, a complaint was lodged by deceased on 20th February, 2016 against the complainant and his family members, in which crime the complainant and his family members got bail.

5. Subsequent thereto, it is claimed that the applicant along with his father-in-law and brother of father-in-law assaulted deceased Bajirao with a handle of sickle.

6. The investigation papers do not depict that death of Bajirao has occurred because of head injury. Perusal of the allegations against the applicant, particularly in the first information report and statements of the eye-witnesses speaks of assault by the applicant with handle of sickle on the mouth. The said injury cannot be termed to be one, which has caused death of victim.

7. Apart from above, the intention of the applicant to commit offence of murder punishable under Section 302 of the Indian Penal Code is under doubt, as what has been used is, handle of the sickle and not sharp side of the weapon. There are no criminal antecedents against the applicant and investigation in the matter is complete. In view thereof, in my opinion, the application needs to be allowed. Hence, following order:-

(3)

The applicant be released on bail, in connection with C.R. No.30 of 2016, registered with Charthana Police Station, Tq. Jintur, Dist Parbhani, for offences punishable under Sections 302, 307, 120-B and 342 read with Section 34 of the Indian Penal Code, on furnishing P.R. Bond of Rs.25,000/- 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