

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

24 CRIMINAL APPLICATION NO. 1300 OF 2017

TUKARAM KASHIRAM MALI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. N.L. Choudhari
APP for Respondent/State : Mr. S.W. Munde
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CORAM : T.V. NALAWADE, J.
DATED : May 2, 2017.

ORDER :

1. The application is filed for bail. A statement was made by the learned counsel for applicant that this is the first application filed for bail in this Court by the applicant. Both the sides are heard. Papers of investigation were made available to the Court for perusal.

2. The crime is registered on the basis of report given by Dhananjay Mali, son of deceased at C.R. No. 13/17 in Sakri Police Station, District Dhule for the offence punishable under section 302 r/w. 34 of I.P.C. The deceased had left home on 28.1.2017 at about 8.00 a.m. Up to 10.30 p.m. the deceased was in touch with his relative including friend of Dhananjay namely Mahendra. After 11.11 p.m. there was miscall from the handset of the deceased to Mahendra. But, when he tried to contact the

deceased, the deceased did not take up the phone. Then they started searching for deceased. The deceased had left the home with his Hyundai Santro Zip Car bearing No. MH-15/R-9999. One Prakesh Patil of Jaithane informed that he had seen the car of the deceased in burned condition in front of the Irrigation Department at Sakri. Then they went there and they noticed that his father was tied with the seat of the car and his limbs were in tied condition and somebody had put in cloth in to his mouth. As in the previous incident dated 3.12.2016 and one more incident which had taken place 15 days prior to the incident dated 3.12.2016, some persons had given threat to the deceased that deceased should withdraw the complaint given against Krushna and Kashiram and as there was civil dispute between the deceased on one side and his brothers like Krushna and Kashiram from other, Dhananjay gave report against Krushna and Kashiram and sons of these accused. Present applicant is son of Kashiram.

3. The present matter was adjourned atleast on two occasions to give opportunity to the learned APP to show the material against the applicant in addition to motive mentioned in the F.I.R. It can be said that in the papers of investigation, there is material only like motive. There is no other piece of evidence,

even circumstantial evidence against the present applicant. The present applicant has been behind bars since 29.1.2017 and 90 days are over, but the chargesheet is not filed. These circumstances also cannot be ignored. A statement was made by the learned counsel for the applicant that Krushna and Kashiram are already granted bail by the Sessions Court. It appears that the learned Judge of the Sessions Court has refused the bail to the applicant on the ground that investigation is still in progress. In view of these circumstances, this Court holds that it is not possible to keep the applicant behind bars now.

4. In the result, the application is allowed. The applicant is to be released on bail on his furnishing PR and SB of Rs. 15,000/- (Rupees fifteen thousand). He is not to tamper with the prosecution witnesses. He is not to commit similar offence.

[T.V. NALAWADE, J.]

ssc/