

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

10 CRIMINAL APPLICATION NO. 1305 OF 2017

JALINDER S/O APPASAHEB BORUDE
VERSUS
THE STATE OF MAHARASHTRA

Shri. A.K. Bhosale, Advocate, for applicant.

Shri. S.N. Morampalle, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 21 March 2017

ORDER:

1) The application is filed for bail. This is second application filed in this Court. The first application filed before filing of charge sheet was disposed of as withdrawn by order made on 5-1-2017 in Criminal Application No.6633/2016. Liberty was given to the applicant to file application again after filing of the charge sheet. Both the sides are heard.

2) The crime was registered on the basis of report given by Vishwajit Narhari Salve, brother of deceased Ashish on 23-10-2016 at about 17.45 p.m. When he learnt

that some boys were assaulting Ashish he rushed to the spot. He noticed that some boys were assaulting Ashish by using bat and iron rod. When he and his sister-in-law reached the spot and tried to intervene, those boys left the place on their motor cycles. He could give names of the persons like Yogesh Chavan, Yamraj Chavan, Sonu @ Tippar, Maroti Chavan and these names were informed to police in the report dated 23-10-2016. At that time the deceased was admitted in M.I.T. Hospital, Aurangabad. Initially crime was registered for offence punishable under section 307 read with 34 of the Indian Penal Code. Ashish died on 24-10-2016 and so offence punishable under section 302 read with 34 of the Indian Penal Code was added.

3) There are statements of may eye witnesses showing that present applicant was also there though his name was not given in the F.I.R. This Court has seen the post mortem report. The post mortem report shows that only one visible surface wound like abrasion was noticed over lateral aspect of left wrist. Therapeutic injection marks were found over right lateral aspect of neck. There

was mark of suture. The death took place due to head injury. Learned counsel for the applicant drew attention of this Court to the MLC prepared by the MIT Hospital at 6.07 p.m. on 23-10-2016 which is prior to the giving of the F.I.R. and it shows that information was given by relatives of the deceased that they had noticed the deceased in unconscious condition and they had learnt that somebody had assaulted the deceased.

4) Learned counsel for the applicant submitted that this Court granted bail to Yogesh in Criminal Application No.811 of 2017 by order dated 17-2-2017 when name of Yogesh was mentioned in the F.I.R. on the date of the incident. The learned counsel submitted that on the ground of parity the applicant is entitled to get bail. In view of the aforesaid circumstances this Court holds that it is not desirable to keep the applicant behind the bars till disposal of the case filed against him.

5) In the result, the application is allowed. The applicant is to be released on bail in connection with Crime No.1105/2016 registered in Mukundwadi Police

Station Aurangabad for offences punishable under sections 302, 307, 143 etc. of the Indian Penal Code and section 3(1)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on his furnishing P.B and S.B. of Rs.15,000/-. He is not to tamper with the prosecution witnesses. He is not to commit similar offence.

Sd/-
(T.V. NALAWADE, J.)

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