

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

CRIMINAL APPLICATION NO.1662 OF 2017

Ashok Kondaji Rokade ... Applicant

Versus

The State of Maharashtra
& another ... Respondents

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Mr. S.S.Chapalgaonkar, Advocate for Applicant
Mr. S.M.Ganachari, APP for Respondent No.1-State
Mr. N.B.Narwade, Advocate for Respondent No.2.

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CORAM : V.K.JADHAV, J.

DATED : 23rd August, 2017

PER COURT :-

1. The applicant is seeking cancellation of the pre-arrest bail granted to Respondent No.2 by the Learned Additional Sessions Judge, Kopergaon by order dated 14.02.2017 in Criminal Miscellaneous Application No.16 of 2017.

2. Brief facts, giving rise to the present application are as follows :

As per the case of the prosecution, on 31.03.2016 between 10.30 a.m. to 11.00 a.m. deceased

vmk/-

Kiran Ashok Rokade below the age of 18 years was caught hold by the devotees of Saibaba at Shirdi. Deceased Kiran was handling the purse of the devotees. Thus, the devotees handed over him to the Police Naik deputed at a temple security. It is further case of the prosecution that deceased Kiran was brought to the Police Station and he was kept in the lock-up at about 11.45 a.m. and onwards without registration of the crime and without taking any entries in the relevant register. However, during the duty period of Police Naik Mr. Avhad and Mr. Mane, deceased Kiran Rokade hanged himself by iron rod of steel door of the lock-up room with the help of his waist belt. At about 12.45 p.m. the said Kiran Rokade was shifted to Saibaba Hospital, Shirdi. But the Medical Officer declared him dead. On the basis of these allegations and further as per the directions given by this Court the Balasaheb Thorat, Superintendent of Police, State CID lodged the complaint. The Respondent No.2 has filed an application for pre-arrest bail bearing Criminal Miscellaneous Application No.16 of 2017 and the Learned Additional

vmk/-

Sessions Judge, Kopergaon has granted pre-arrest bail by order dated 14.02.2017.

3. The learned counsel for the applicant submits that, though serious allegations have been made in the complaint, the Learned Additional Sessions Judge has granted the pre-arrest bail to the applicant. The learned counsel submits that the present applicant was on duty as a P.S.O. for sentry duty and even though his duty hours were between 8.00 a.m. to 10.00 a.m. as a sentry duty, he should have been there in the guard room, even his duty hours were over. However, the Respondent No.2 has behaved irresponsibly and left the guard room. The Learned Additional Sessions Judge, Kopergaon has not considered this important aspect though specifically alleged in the complaint and granted pre-arrest bail to Respondent No.2 at the very initial stage. In the given set of allegations custodial interrogation of Respondent No.2 was required.

4. The learned counsel for the Respondent No.2 /

vmk/-

Original Accused submits that, deceased Kiran Rokade was brought to Police Station Shirdi with written report and he was given in the custody of PHC Shaikh Ayub with the written report at 11.45 a.m. and at that time, Police Naik Rajendra Avhad was on lock-up guard duty. The Learned Judge has perused the duty register placed on record by the Investigating Officer and noticed that Respondent No.2 was on lock-up guard duty at Police Station Shirdi from 8.00 a.m. to 10.00 a.m. and charge was handed over to Police Naik Rajendra Avhad. The learned Counsel submits that Learned Additional Sessions Judge has therefore rightly granted pre-arrest bail to the applicant. No interference is required.

5. I have also heard the learned APP for the State.

6. On perusal of the compliant and investigation papers it appears that, at about 10.00 a.m., on the day, when the incident had taken place, the present Respondent No.2 has handed over the charge of guard duty to Police Naik Rajendra Avhad. The said Police

vmk/-

Naik Rajendra Avhad is also an accused and this Court has rejected his application seeking pre-arrest bail. The Learned Additional Sessions Judge had an opportunity to inspect the duty register placed on record by Investigating Officer. It appears from the observations made by the learned Additional Sessions Judge that at about 10.00 a.m. Respondent No.2 has handed over charge of guard duty to Police Naik Rajendra Avhad. In view of the same the Learned Additional Sessions Judge has observed that, there is no prima facie material that the present Respondent No.2 has committed any act or omission as envisaged under Section 107 of the IPC. In view of the above, I find no substance in this application. The application is liable to be rejected. Hence, following order.

ORDER

- (I) The application is hereby rejected.
- (II) Application is accordingly disposed of.

(V.K.JADHAV, J.)

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vmk/-