

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

CRIMINAL APPLICATION NO.2164 OF 2017

Akash s/o Bhartari Kshirsagar, ... **Applicant**
Age 23 years, Occu: Business,
R/o Kalas, Tq. Parnar,
Dist. Ahmednagar (At present in
Jail)

VERSUS

The State of Maharashtra ... **Respondent**
Through Investigating Officer,
Parner Police Station,
District Ahmednagar

Mr. H. D. Deshmukh Advocate for the applicant
Mr. S. J. Salgare, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 16th June, 2017

ORDER:

1. Heard Mr. Deshmukh, learned counsel for the applicant and Mr. Salgare, learned APP for the State.

2. This application is filed under section 439 of the Criminal Procedure Code for bail in connection with Crime No. 162/2016, registered with Parner Police Station, District Ahmednagar for the offences punishable under Section 302 r/w section 34 of the Indian Penal Code.

3. As per information given to the Police station, victim Babaji Mendhe was missing from 27.06.2013. He did not return back to home and he was found dead at the place of incident. After registration of crime, accused persons including applicant were arrested. Other three accused persons are released on bail.

4. The learned counsel for the applicant states that other accused persons with similar allegations are released on bail. Therefore, the present applicant is also entitled for bail on the ground of parity. As against this, learned APP appearing for the State, states that role of the present applicant is altogether different and there are witness to indicate that the deceased was lastly seen in the company of the present applicant alone.

5. In support of the argument, learned APP invited my attention to the statement of Vijay Shirole whose statement was recorded on 29.06.2016, who stated that at about 12 noon, the initially the preset applicant, one Vaibhav Mendhe and Avinash Galande had been to hotel- Janseva, they demanded

liquor, consumed and went away. After some time, one person Vaibhav Mendhe brought Babaji Mendhe to the Hotel. Babaji was already drunk. Again both of them ordered liquor and went away. Within short period, there was exchange of words between the present applicant and Babaji Mendhe near Hotel Sairaj Hotel and the applicant was beating Babaji. Thereafter, the applicant and Babaji went towards petrol pump. Witness Tushar Mahamni states that on 27.06.2016. at about 12.30 p.m. the present applicant and deceased came to his Hotel. They were drunk. At that time there was exchange of words between the present applicant and Babaji. They were shouting loudly and therefore they were asked to go out. Again there was quarrel between them and subsequently both of them went away. From the statement of witness Somnath Gadge it appears that deceased was lastly seen with the present applicant.

6. On perusal of the contents of postmortem report, it appears the deceased had multiple abrasions over both hands, contusions over right shoulder, abrasions over neck, both legs and scratch

marks around neck and cause of death is due to asphyxia.

7. Looking to the above statements of the witnesses, coupled with contents of postmortem report and the fact that the deceased was lastly seen with the company of the present applicant alone, the applicant is not entitled for bail. Hence the criminal application is rejected.

(K. L. WADANE, J.)

JPC