

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 908 OF 2017
IN
CRI. APPEAL NO. 394 OF 2017**

Allabaksh Babamiyan Munde
(presently in Yerawada Central Prison,
Pune) .. Applicant

Vs.

The State of Maharashtra
(Through Dattawadi Police Station,
Pune vide their CR No. 86 of 2012) .. Respondent

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Mr. Niteen Pradhan Advocate i/b Tasneem Khatau and Farishta
Menon and Ms. Shubhada Khot Advocate for Applicant
Mr. H.J.Dedhia A.P.P. for the State

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**CORAM : SMT.V.K.TAHILRAMANI AND
SANDEEP K.SHINDE, JJ.**

DATED : JULY 26, 2017

ORAL ORDER [PER SMT. V.K.TAHILRAMANI, J.]:

1 Heard the learned counsel for the applicant and the
learned A.P.P. for the State.

2 This application for bail has been preferred on merits
as well as on medical grounds. As far as the medical grounds

are concerned, the report of Chief Medical Officer of Yerawada Central Prison, Pune where the applicant is lodged, shows that he is suffering from "H.I.V." with gradual weight-loss, severe weakness and fatigue and anorexia along with uncontrolled diabetes. The report shows that his condition is deteriorating. The blood test for CD-4 count shows that CD-4 count is 739 which is less than expected minimum count. The platelet count is also low. The report further shows that the patient requires recurrent hospitalization. The medical reports of the applicant are taken on record and marked "**X-colly.**" for identification.

3 As far as the merits are concerned, it is seen that there is no eye witness who implicates the applicant. The only material against the applicant is recovery of Bolero jeep which according to the prosecution, belongs to the applicant. As far as this jeep is concerned, the prosecution is relying on the evidence of PW 6 Jayashree who has stated that accused Ravindra Wadekar and accused Gulab Shaikh got down from a vehicle and they took deceased Sagar alias Pappu in that vehicle along with them. It is stated on behalf of the prosecution that this vehicle was the Bolero jeep which was

recovered at the instance of the applicant. However, as far as this contention of the prosecution is concerned, it is seen that PW 6 Jayashree has not identified the Bolero jeep as the same vehicle in which co-accused Ravindra and Gulab took Sagar alias Pappu forcibly with them. Thus, looking to the evidence on record and the medical condition of the applicant, we are inclined to grant bail to the applicant. Hence, the following order is passed:

ORDER

- (1) Applicant - Allabaksh Babamiyan Munde be released on bail in the sum of Rs.30,000/- (Rs. thirty thousand only) with one or two sureties to make up the said amount with P.R. bond in the like amount;
- (2) During the period that the applicant is on bail, he shall report once in two months at Dattawadi Police Station, Pune i.e. first Monday of every alternate month;
- (3) Application is allowed and disposed of accordingly.

[SANDEEP K. SHINDE, J.]

[SMT.V.K.TAHILRAMANI, J.]