

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 964/2017

(BALKRISHNA GULABRAO GHENGE **VERSUS** STATE OF MAHARASHTRA, THR. PSO PS URAL, AKOLA)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri R.M. Daga, counsel for the applicant.
 Mrs.K.R. Deshpande, A.P.P. for the non-applicant.

CORAM : A.S. CHANDURKAR, J.

DATE : OCTOBER 13, 2017.

The applicant, who has been arrested on 28.05.2017 in Crime No.123/2017 for the offences punishable under Sections 302, 201, 181 read with Section 34 of the Indian Penal Code registered with Police Station Ural, District Akola, seeks his release on bail.

As per the first information report dated 13.05.2017, one Haribhau, brother of the present applicant, lodged a missing report stating therein that his cousin sister had been missing since 07.03.2017. On that basis, the investigation commenced. On 28.05.2017, a report was lodged by the concerned Police Head Constable in which it was stated that during the course of investigation, the applicant and his brother had confessed that they had done away with their cousin sister. Thereafter, her body was taken on the motorcycle and it was burnt. On the same day, the applicant came to be arrested.

It is submitted on behalf of the applicant that entire case of prosecution is based on the report dated 28.05.2017 in which it is stated that the present applicant had confessed to have committed the murder of his cousin sister. There was no eye witnesses to the said crime and the

motorcycle of the present applicant has been seized. It is submitted that the alleged confession cannot be taken into consideration, more so when it is not on memorandum. It is submitted that charge-sheet has now been filed and hence, the applicant is entitled for being released on bail.

The application is opposed by learned Additional Public Prosecutor. It is submitted that the applicant and his brother have admitted to have committed the said offence and the motorcycle belonging to the applicant has been duly seized. The reason for doing away with the cousin sister is also clear from the report dated 28.05.2017. It is, therefore, submitted that applicant is not entitled to be released on bail.

Perused the first information report as well as the documents filed along with the charge-sheet. The missing report is initially given by accused no.1-Haribhau. The only material for the present that is relied upon by the prosecution is the alleged confession by both the accused, which has been made to the Police Head Constable. Besides this, the applicants motorcycle has been seized. Moreover, the charge-sheet has been filed and investigation has been completed. Considering the material available on record insofar as the present applicant is concerned, I find that he is entitled to be released on bail.

The criminal application is allowed. The applicant, who has been arrested pursuant to Crime No.123/2017 for the offences punishable under Sections 302, 201, 181 read with Section 34 of the Indian Penal Code registered with Police Station Ural, District Akola, be released on furnishing P.R. Bond in the sum of Rs.20,000/- with one surety in like amount. The applicant shall attend the

concerned police station on 06.11.2017 and thereafter as per the directions of the Investigating Officer. He shall not take any steps to tamper with the prosecution witnesses. The observations made in this order are only for deciding the bail application.

The criminal application stands disposed of.

JUDGE

APTE