

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

Criminal Application No.1024 of 2015

- 1) Purnanand S/o Sridhar Kadam.
- 2) Pramod S/o Sureshrao Kadam.
- 3) Shivaji S/o Ganeshrao Kadam. .. **Applicants.**

Versus

- * The State of Maharashtra. .. **Respondent.**

Shri. R.N. Dhorde, Senior Advocate, holding for Shri. V.R. Dhorde, Advocate, for applicants.

Shri. A.V. Deshmukh, Additional Public Prosecutor, for respondent.

CORAM: T.V. NALAWADE, J.

DATE : 11th MARCH 2015

ORDER:

1) The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation which include the post mortem report and the report of Histopathology.

2) The crime is register on the basis of report given by one Sambhaji Ingalewad. His wife was village

Sarpanch for some time. It is contended that the present applicants had created dispute regard caste of the wife of the complainant and the matter was taken to Court. Learned counsel for the applicants submitted that the Caste Scrutiny Committee invalidated the caste claim and this decision of the Caste Scrutiny Committee is confirmed by this Court.

3) The incident in question took place on 15-10-2014 after 5.15 p.m. It is the contention of the complainant that when he was near one shop, the applicants came there and they picked up quarrel due to the previous enmity. He has made allegation that they assaulted him with steel fist. He made allegation that when his father was intervening they assaulted him also. Allegations are made that his father died due to assault made by the applicants in the incident dated 15-10-2014. He gave report on the same day and the crime came to be registered for offence under section 302 of the Indian Penal Code and section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4) When the post mortem examination was conducted no surface injuries were found on the dead body. The doctor who conducted the examination could not give opinion regarding cause of death and so the matter was referred for expert opinion. Report of the Histopathology is on the record and the cause of death is given as "Myocardial infarction with pulmmonary oedema with emphysema".

5) Learned Senior Counsel for the applicants submitted that the applicants are behind the bars since 16th January 2015. In view of material available as against the applicants, this Court holds that it is not desirable to keep the applicants behind the bars till disposal of the case which may be filed against them. The submissions made show that the investigating officer is likely to drop section 302 of the Indian Penal Code if he files charge sheet.

6) In the result, the application is allowed. The applicant is to be released on bail in Crime No.119/2014 registered in Bhokar Police Station, District Nanded for

offences under sections 302, 147, 148, 149 etc of the Indian Penal Code and section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, on furnishing PB and SB of Rs.15,000/- (Rs. Fifteen Thousand only) each. The applicants are not to tamper with prosecution witnesses. They are not commit similar offences.

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

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