

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

CRIMINAL APPLICATION NO. 1350 OF 2015

Bajirao s/o Auji Thokal & Ors. **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. Niteen V.Gaware, Advocate for Applicants.

Mrs. V.A.Shinde, A.P.P. for Respondent – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 1st APRIL, 2015

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PER COURT :

1. Leave is granted to the learned counsel for the applicants to correct the name of applicant No. 1. Amendment to be carried out forthwith.

2. By the present application, the applicants are seeking their enlargement on bail in connection with Crime No. 313/2014 for the offences punishable u/s 302, 323, 201, 504 read with 34 of the Indian Penal Code registered with police station Parner, Dist. Ahmednagar.

3. The applicants are arrested on 25/12/2014 and

since then they are languishing in jail. The investigating agency has already completed its investigation and the charge sheet is filed in the Court of law.

4. Heard Mr. Niteen V.Gaware, learned Counsel for the applicants and Mrs. V.A.Shinde, learned A.P.P. for the respondent – State in extenso.

5. Name of the deceased is Zulel Chavan. Initially, accidental death vide A.D. No. 14/2014 was registered at police station Tokawade, Taluka Murbad, Dist. Thane. The said accidental death u/s 174 of the Code of Criminal Procedure was registered on the basis of the information given to the police authority by one Jagan Barku Kondabale.

Enquiry was conducted in the said accidental death proceedings. The inquest was performed on the dead body, which clearly shows that there were no external injuries on the dead body. Further, the spot is Malshej Ghat. Worth to note is that Jagan, who is doing his business of selling fruits and other articles in the said Ghat, stated in his statement that he saw a person wandering in front of his fruit shop in the said Ghat. According to Jagan, he observed that the said person was little-bit mentally imbalanced. He has given information to the police that the dead body was of same person.

Postmortem was also conducted. Postmortem clearly shows that there were only bruises and abrasions and cause of death was due to 'cardio respiratory arrest'.

5. After the lapse of four and half months, one Raju Sukchand Walia, who works as Cook at hotel Samadhan owned by one Pandurang Dhokar lodged report with police station Parner. In the F.I.R., he alleges that deceased Zulel Chavan was also working with him in the said hotel and on 28/10/2014 the deceased under the influence of liquor started abusing owner Pandurang Dhokar resulting into beating by Pandurang. In the F.I.R., first informant has stated that applicant No. 2 Niteen and applicant No. 3 Kedar gave fists and kick blows to deceased. In so far as applicant No. 1 Bajirao is concerned, it is alleged that after giving good solid beating to deceased, applicant No. 1 called one TATA Sumo car of one Sachin Bhangade and the deceased was removed from the hotel. In the charge sheet, there are two statements of Kailas and Malhari, who, according to the prosecution, are the witnesses to beating to the deceased. Their statement also shows and attributes only fists and kick blows by applicant Nos. 2 and 3 to the deceased and calling of TATA Suma car by applicant No. 1. The F.I.R. is lodged nearly after four and half months. There is no explanation as to why the first informant kept mum and did not report the matter to the police if the assault is taken place in his presence. Further, the investigation is over. Looking to the role attributed to the present applicants, further continuance of the applicants in jail would not subserve any purpose.

6. Hence, I pass the following order :

(i) The present Criminal Application is

allowed.

(ii) Applicant Nos. 1 to 3 be released on bail in connection with Crime No. 313/2014 for the offences punishable u/s 302, 323, 201, 504 read with 34 of the Indian Penal Code registered with police station Parner, Dist. Ahmednagar. on they executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] with two solvent sureties of like amount. Bail before the trial Court.

(iii) With these observations, present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]