

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

CRIMINAL APPLICATION NO. 1505 OF 2015

Kishor s/o Marotirao Kadam & Ors. **APPLICANTS**

V E R S U S

The State of Maharashtra & Anr. **RESPONDENTS**

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Mr.R.N.Dhorde, Senior Counsel i/b Mr.V.R.Dhorde,
Advocate for Applicants.

Mrs. V.A.Shinde, A.P.P. for R – 1 State.

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CORAM : V.M.DESHPANDE, J.

DATE : 7th APRIL, 2015

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PER COURT :

1. By the present application, the applicants, since apprehending their arrest in connection with Crime No. 119/2014 for the offences punishable u/s 302, 323, 504, 147, 148, 149 of the Indian Penal Code and u/s 3 (1) (x) and 3 (2) (5) of the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act [for short, 'Atrocities Act'] registered with police station Bhokar, district Nanded, are before this Court for seeking anticipatory bail in their favour.

2. Heard Mr.R.N.Dhorde, learned Senior Counsel instructed by Mr.V.R.Dhorde, learned counsel for the applicants and Mrs. V.A.Shinde, the learned Additional Public Prosecutor for respondent No. 1 – State.

3. On 15/10/2014, first informant Sambhaji Madhavrao Ingelwad lodged report with police station Bhokar. The First Information Report [for short, 'F.I.R.'] since disclosing the commission of cognizable offence, the Investigating Officer registered the said F.I.R. as Crime No. 119/2014 for offences punishable u/s 302, 323, 504, 147, 148, 149 of the Indian Penal Code and u/s 3 (1) (x) and 3 (2) (5) of the Atrocities Act. The date of the incident, as per F.I.R. is 15/10/2014.

It was reported to the police station Bhokar that due to old enmity between the first informant and the present applicants on account of Gram Panchayat election, which was held in the year 2010, in which the panel of applicant No. 1 was completely routed to the panel lead by the wife of the first informant. The F.I.R. further proceeds that applicant No. 1 thereafter lodged complaint with the Caste Scrutiny Committee in respect of the caste of the first informant and his wife. It is further stated that due to the old enmity between them, the applicants were nursing grudge against the first informant.

4. It is further stated in the F.I.R. that on 15/10/2014 at 5.15 p.m. when the first informant was sitting near the shop of Sainath Chandanwad, that time present

applicants and others came there and abused the first informant in the name of caste and thereafter started assaulting on him. Due to the same, the first informant fell down, that time his father Madhav came there and attempted to rescue the first informant; that time the present applicants and others gave fist and kicks blows on the chest of the father of the first informant, due to which his father died.

5. The Investigating Officer in the crime is the Assistant Police Commissioner, Sub Division, Bhokar. The Investigating Officer on 17/01/2015 filed report with the Judicial Magistrate First Class, Bhokar. The said report is available in the compilation from page No. 84 to 91. By filing the said report, the Investigating Officer has reported to the Judicial Magistrate First Class, Bhokar as under,

“ सदर गुन्ह्याचे तपासात यातील मयत हा
“ Myocardial Infarction with pulmonary
oedema with emphysema ” ने मरण पावल्याचे
निष्पन्न झाले असल्याने गुन्ह्याच्या एफ.आय.आर.मधील
कलम ३०२ भा.द.वि. व सह कलम ३ (२) (५) अ.
जा.ज.अ.प्र.का. या कलमा कमी करण्यात आलेल्या
आहेत ”.

Thus, it is clear that the Investigating Officer found that the death of Madhav was not due to assault by the applicants and others as alleged by the first informant and the medical report shows that death of Madhav is due to ‘Myocardial Infarction with pulmonary oedema with

emphysema’.

6. Learned A.P.P. submitted on instructions and on the basis of the investigation papers with her that final death certificate is also received, which also confirm the cause of death as ‘Myocardial Infarction with pulmonary oedema with emphysema’. She further stated that the entire investigation is over and the charge sheet is likely to be filed in short time. Upon instructions, she has submitted that the Investigating Officer is not going to file charge sheet against the applicants for the offence punishable u/s 302 of the Indian Penal Code and u/s 3 (2) (5) of the Atrocities Act.

7. In that view of the matter, the applicants have made out case in their favour for anticipatory bail.

8. Hence, I pass the following order :

(i) The present Criminal Application is hereby allowed.

(ii) In the event of their arrest, in connection with in connection with Crime No. 119/2014 for the offences punishable u/s 147, 148, 149, 323, 504 of the Indian Penal Code and u/s 3 (1) (x) of the Atrocities Act registered with police station Bhokar, district Nanded applicant No. 1 Kishor s/o Marotirao Kadam, applicant No. 2 Shankar s/o Marotirao Kadam, applicant No. 3 Madhav s/o Marotirao Kadam and applicant No. 4

Suresh s/o Marotirao Kadam be released on anticipatory bail on they executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] with one solvent surety of like amount by each of them.

(iii) The applicants shall not interfere with the course of investigation.

(iv) The present Criminal Application is disposed of.

[V.M.DESHPANDE, J.]