

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 2364 OF 2015**

1. Govind s/o Ramrao Kotwale
Age 24 years, Occu: Driver
2. Sanjay s/o Ramrao Kotwale
Age 29 years, Occu: Labour
3. Mahadabai w/o Ramrao Kotwale
Age 55 years, Occu: Household

... Applicants**Versus**

The State of Maharashtra
Through Police Station, Mukhed
Taluka Mukhed, Dist. Nanded

... Respondent

Mr. S. B. Bhapkar, Advocate for the applicants
Mrs. P. J. Bharad, APP for the Respondent-State.

CORAM : V. M. DESHPANDE, J.**DATE : 11th June, 2015****PER COURT :**

1. By the present application, the applicants who are in jail in connection with Crime No.142/2014 registered at Mukhed Police Station, Taluka Mukhed Dist. Nanded for the offences punishable under sections 302, 326, 324, 323, 504, 506 read with 34 of the Indian Penal Code, are seeking their release on bail.

2. I have heard Mr.S. B. Bhapkar, counsel for the applicants and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the State.

3. The first information report is lodged by one Vyankat Kotwale on 23.01.2014 with the Police Station in respect of death of Kashinath Kotwale, injury to first informant Vyankat Kotwale, and to his brother Laxman.

4. The first informant, deceased and the present applicants are close relatives of each other. From the first information report itself, it is clear that the dispute was going on in between them in respect of agricultural property.

5. According to the first information report, on 22.12.2014, the assault took place. The first information report would reveal overt-act against Govind to the effect that he has given stick blow to the deceased Kashinath. Insofar as deceased Kashinath is concerned, in the first information report and in the charge sheet there no role attributed to the applicant Sanjay, Applicant Mahadabai. Applicant has Sanjay given blow by means of stone on the first informant. Insofar as role attributed to all three, Mhadabai caught hold Laxman

and applicant Govind and Sanjay gave blow by means of stone.

At the time of postmortem, opinion in respect of cause of death reserved and viscera was preserved for chemical analysis. Learned Additional Public Prosecutor has stated that no poison was detected in the viscera. According to the communication from the Assistant Professor, Department of Forensic Medicine & Toxicology, Dr. Shankarrao Chavan Govt. Medical College, Nanded cause of death is "Myocardial infarction due to coronary artery disease". The said communication disclose that injuries mentioned in postmortem are not caused in ordinary course.

6. Charge sheet is also filed. The applicants are in jail since 24.12.2014.

7. Looking to the fact that there are no allegations against applicants Sanjay and Mahadabai in respect of death of Kashinath and insofar as applicant Govind is concerned, in view of the probable cause of death, there further continuance in jail is not warranted, when investigation is already over. That leads me to pass following order:

ORDER

1.Criminal Application is allowed.

2. The Applicants shall be released on bail in connection with Crime No.142/2014 registered at Mukhed Police Station, Taluka Mukhed Dist. Nanded for the offences punishable under sections 302, 326, 324, 323, 504, 506 read with 34 of the Indian Penal Code on their executing P.R. Bond of Rs. 10,000/- (Rs. Ten Thousand only) each with one solvent surety in the like amount.
3. Application is disposed of.

(V. M. DESHPANDE, J.)

JPC