

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

CRIMINAL APPLICATION NO.4385 OF 2015

Ramesh Mahadev Mhase
and ors.

.. Applicants

Versus

The State of Maharashtra

.. Respondent

Mr J.D. Mane, Advocate h/f Mr P.S. Pawar, Advocate for applicants
Mrs B.B. Gunjal, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 14th September 2015

PER COURT

1. The applicants herein are seeking regular bail in Crime No.12/2015, registered at Ambhora Police Station, District Beed, for the offences punishable under Sections 302, 120-B, 201 read with Section 34 of the Indian Penal Code.

2. Applicant Ramesh was arrested on 15th April 2015 along with other applicants. The accusations against the applicants are that they have killed one Gorakh Murlidhar Mhaske.

3. Mr Mane, learned Counsel for the applicants, while making out the case for grant of regular bail would urge that the prima facie involvement of the applicants in the crime in question is itself in doubt, as according to him, the prosecution case is full of contradictions. According to him, if the statements of eye witnesses are compared with the copy of first information report and the intimation to the Police about missing, prima facie the same could be inferred as false statements.

4. In addition to above, he would urge that perusal of post mortem report reflects only one ante mortem injury and other three injuries i.e. nibbling are post death injuries. In addition to this, he would urge that the role attributed to the applicants in the commission of crime in question is in the form of sweeping allegations of using of rope and putting the same in the neck of the deceased. He would further urge that there are no corresponding injuries to the neck of the deceased and as such, their involvement in the crime in question is itself in doubt.

5. He would further urge that looking to the ages of the present applicants and after completion of investigation, the evidence that is available in the charge-sheet, prima facie there is hardly any evidence about involvement of the applicants in the crime in question, as such prayed for release of the applicants on regular bail.

6. While countering the above referred submissions, learned A.P.P. has invited attention of this Court to the statements of two eye witnesses namely Ashok and Sominath, who have in clear terms stated the involvement of the present applicants in the crime in question. According to her, there is sufficient evidence on record available against the present applicants and as such, prayed for dismissal of the application.

7. With the assistance of learned Counsel and learned A.P.P. I have perused the statements of above referred two eye witnesses in the

light of the contents of missing report, contents of first information report and also post mortem report.

8. From the statements of two eye witnesses, it reflects that the applicants are named in the commission of crime in question with a particular role.

9. Apart from above, the post mortem report though reflects only one ante mortem injury, however, it shows fracture of body of C-4 and C-5 cervical vertebra with evidence of hematoma surrounding the fracture, which speaks cause of head injury. If the said cause is considered in the light of the statements of eye witnesses, in my opinion, prima facie involvement of the present applicants in the crime in question cannot be ruled out.

10. So far as the other submission made by learned Counsel for the applicants, while pursuing this Court to grant regular bail as regards certain contradictions is concerned, it will not be appropriate at this stage to go into, as the same can be gone into at the stage of trial only.

11. In view thereof, no case for grant of regular bail is made out. Criminal Application fails, stands dismissed.

(N.W. SAMBRE, J.)

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