

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

CRIMINAL APPLICATION NO. 5095 OF 2015

1. Ganesh S/o Bisansing Charwande,
2. Ranjeet S/o Bhagchand Rajput,
3. Suresh S/o Gulchand Maher,

All R/o Kobapur, Taluka Gangapur,
District Aurangabad

...Applicants

versus

The State of Maharashtra

...Respondent

.....

Mr. N. S. Ghanekar, Advocate for applicants

Mr. G. O. Wattamwar, A.P.P. for respondent/State

.....

WITH

CRIMINAL APPLICATION NO. 5452 OF 2015

Ramesh Bisansing Charwande
R/o Kobapur, Tq. Gangapur,
Dist. Aurangabad

...Applicant

versus

The State of Maharashtra

...Respondent

.....

Mr. V. D. Sapkal, Advocate for applicant

Mr. G. O. Wattamwar, A.P.P. for respondent/State

.....

WITH

CRIMINAL APPLICATION NO. 5436 OF 2015

Rameshchandra (Ramchandra)S/o
Gulchand Maher,
R/o Village Kobapur, Tq. Gangapur,
Dist. Aurangabad

...Applicant

versus

The State of Maharashtra

...Respondent

.....
Mr. Rajendra S. Deshmukh, Advocate for applicant
Mr. G. O. Wattamwar, A.P.P. for respondent/State
.....

**WITH
CRIMINAL APPLICATION NO. 5303 OF 2015**

1. Bhagwan Kisan Charwande,
 2. Dhansing Kisansing Charwande
- ...Applicants
- versus

The State of Maharashtra

...Respondent

.....
Mr. Joydeep Chatterji, Advocate for applicants
Mr. G. O. Wattamwar, A.P.P. for respondent/State
.....

CORAM : N.W. SAMBRE, J.

DATE : 15th OCTOBER, 2015

ORAL ORDER :

As this Court was not inclined to grant bail to the applicant No. 1- Bhagwan Kisan Charwande in Criminal Application No. 5303/2015, upon instructions, learned Counsel for the applicant makes a motion for withdrawal of the application in respect of applicant No. 1-Bhagwan. Motion is allowed. As such, Criminal Application No. 5303/2015 stands dismissed as withdrawn to the extent of applicant No. 1-Bhagwan.

2. Heard respective Counsel and learned A.P.P. who is assisted by Mr. Ladda, learned Counsel for the complainants.

3. The applicants herein are seeking regular bail in Crime No. I-104/2015 registered with Gangapur Police Station, Gangapur on 03/06/2015 for the offence punishable under Sections 302, 143, 147, 148, 149 of the Indian Penal Code.

4. It is case of the present applicants that the applicants are implicated falsely in crime in question, as according to them, the incident, as regards suicide of Shamsing, aged 35 years was preceded with a dispute which was taken to the police station on the same day i.e. on 02/06/2015 i.e. the date of the incident and the said matter was settled in between the parties. Learned Counsel for the applicants then would urge that perusal of spot panchnama depicts that the place of incident is in the farm of the deceased and there is apparent case of suicide, which could be justified from the fact that there were no external injuries to the deceased and upon scrutiny of the spot panchnama and inquest panchnama, the same would resist that there are no other incriminating circumstances, such as resistance by deceased, if he was murdered. So as to substantiate their contention, they have also invited my attention to the post mortem notes. Learned Counsel then would urge that the cause of

death in the present case could be either by hanging by the accused or suicide by deceased at his own. They would further urge that in view of absence of any external injuries, which speak of resistance if any shown by the deceased in case he was murdered, takes to only conclusion that the deceased has committed suicide. In addition to above, learned Counsel would urge that the incident was first narrated, reported by the police patil to the investigating agency in the very first hour on 03/06/2015, which does not depict any case of murder, as the complainant or her relatives never narrated such case. According to them, even phone call received to the police station does not depict the case of murder at the first instance reported to the police and sought to justify the same based on the statement of the police patil as well Police Sub Inspector of Gangapur police station, namely, Anilkumar Bedre. Apart from above, the person namely, Tarachand, who intervened in the matter at the relevant time of the incident, his statement is conspicuously absent from the charge sheet. As such, one of the case that is put forth by the accused person, is the case of accusations of murder against the present applicants are false at threshold, in view of the fact that, immediately on the next date of death of deceased Shamsing, which occurred on 02/06/2015, his wife on next day i.e. on 03/06/2015 went to Gangapur and getting police complaint typed from typing institute and submitted the same to the police, which

speaks of the intention and object of false implication, as according to learned Counsel, the complainant, wife of deceased by natural course, will not take recourse to such conduct on the very next date of death of her husband.

5. The learned A.P.P., while opposing the bail applications, who was assisted by Mr. Laddha, learned Counsel for the complainants would submit that, the complaint referred by Ushabai, prima facie, depicts involvement of all the accused in the crime of murder of deceased Shamsing. According to him, the deceased Shamsing also suffered injuries and the incident of murder was preceded with scuffle in the morning of the same day, which issue taken to the police station, however the parties thereto have settled the same vide settlement executed on the same day between deceased Shamsing and accused person to which police patil is signatory. They would urge that, the police patil is bias person and there is complaint lodged against him. Apart from above, while relying upon the contents of P.M. report, learned A.P.P. would urge that, there is prima facie case against the present applicants that complainant Ushabai, who has lodged the same at the first instance on 03/06/2015, has specifically named the accused persons.

6. Having bestowed my thoughtful considerations over the

submissions made by the respective parties, it is noticed that, deceased Shamsing died in between 8.30 to 9.30 in the night of 02/06/2015 , which was preceded a quarrel between the deceased and the accused persons, which was settled on the very same day and deed of settlement was drawn which was placed on record. In addition to above, it is required to be noted that, in the complaint, complainant Ushabai has specifically attributed the role to Jeevan and Shantilal, who according to her, were on the tree, to which body of deceased Shamsing was hanged. She has also specifically stated that, Bhagwan has threatened the deceased that, he would see it that, deceased will die evening on the same day.

7. There is consistent in the statement of the complainant recorded under Section 164 of Cr. P.C. alongwith the other statements of the witnesses wherein the above referred three persons with specific attributions in the commission of crime are named.

8. So far as the remaining persons are concerned, there are attributions against them and no specific role is attributed to each of the remaining accused.

9. It is also required to be noted that, from the chargesheet,

there depicts two injuries to the deceased, which this Court cannot be ignorant of.

10. So far as the submission of the learned Counsel for the applicants about afterthought inclusion of allegations of murder and unnatural conduct of the complainant, in my opinion, the same can not be gone into in this Court particularly, chargesheet is already filed.

11. In view of above, it will be appropriate, in my opinion, to enlarge the applicants on bail except Bhagwan, Jeevan and Shantilal against whom there are direct attribution. Hence I propose to pass following order:

(a) All the applicants except applicants namely, Bhagwan, Shantilal and Jeevan be released on bail, in connection with Crime No. I-104/2015 registered with Gangapur Police Station, Gangapur on 03/06/2015 for the offence punishable under Sections 302, 143, 147, 148, 149 of the Indian Penal Code, upon furnishing P.R. Bond of Rs. 25,000/- (Rs. Twenty Five thousand) each of them, in the like amount, with one solvent surety.

(b) The applicants shall not tamper with the prosecution

evidence.

12. Criminal Applications stand allowed in above terms.

[N.W. SAMBRE, J.]

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