

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

CRIMINAL APPLICATION NO. 5677 OF 2015

1. Raosaheb Suryabhan Bongane,
Age : 60 years, Occupation – Agriculture.
2. Badri Raosaheb Bongane,
Age : 25 years, Occupation – Agriculture.
3. Namdeo Raosaheb Bongane,
Age : 25 years, Occupation – Agriculture.
4. Bhagwan Madhavrao Bongane,
Age : 45 years, Occupation - Agriculture. ... Applicants

All R/o. Shevga, Tq. Ambad, Dist. Jalna.

VERSUS

The State of Maharashtra. ... Respondent

.....
Mr Sudarshan J. Salunke, Advocate for the applicants
Mr S. J. Salgare, APP for respondent/State
Mr A. A. Nimbalkar, Advocate to assist PP.

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WITH

CRIMINAL APPLICATION NO. 5670 OF 2015

Sakharam Narayan Bongane,

Age : 30 years, Occupation – Agriculture.

R/o. Shevga, Tq. Ambad, Dist. Jalna. ... Applicant

VERSUS

The State of Maharashtra. ... Respondent

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Mr Joydeep Chatterji, Advocate for the applicant

Mr S. J. Salgare, APP for respondent/State

Mr A. A. Nimbalkar, Advocate to assist PP.

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CORAM : INDIRA K. JAIN, J.

DATE : 5TH DECEMBER, 2015.

PER COURT:

. These are the applications for regular bail. Applicants are involved in Crime No. 157 of 2015 registered at Ambad Police Station, Tq. Ambad, Dist. Jalna for the offences punishable under Sections 302, 143, 147, 149, 324, 323, 504, 506 of the Indian Penal Code and Section 135 of the Bombay Police Act.

2. Heard learned counsel for parties.

3. On 21.07.2015 Sudarshan Sheshrao Khore resident of village Shevga, Tq. Ambad, Dist. Jalna lodged report with the police station stating therein that on 20.07.2015 in between 8:00 and 8:30 am when accused Abasaheb along with informant and some others had been to their agricultural land for settling the dispute regarding boundary of the agricultural land Abasaheb expressed his disapproval to the points fixed demarcating the common bandh.

4. It is alleged that on the same day in the evening at 8:00 pm near Maruti temple accused Raosaheb picked up quarrel with the informant, his brother Uddhav and father Sheshrao. That time Abasaheb his wife Jyoti slapped Uddhav. Another accused Sopan and his wife Varsha assaulted the informant. Namdeo and others arrived on the spot and they manhandled Sheshrao. Raosaheb and Badri kicked Sheshrao. When the quarrel was going on Sakharam one of the applicants inflicted a blow by means of wooden plank on the head of Sheshrao due to which Sheshrao received grievous head injury. He had fallen to the ground and died on the same day.

5. It is submitted on behalf of the applicants that it is a case of single blow resulting to death. None of the applicants had arrived on the spot with pre-meditation. They were not carrying any weapon in their hand. The sudden quarrel was picked up and the alleged blow with a wooden plank was given during quarrel. It is submitted that no motive or intention can be attributed to the applicants. In this background applicants submit that they be enlarged on bail.

6. The learned APP strongly resisted the applications on the ground that specific role is attributed to each of the accused in the statements of eye-witnesses and in FIR. Learned APP submits that in the morning Abasaheb had expressed disapproval to the demarcation of boundary and then all the accused with an intention to kill formed an unlawful assembly and committed murder of Sheshrao. Learned APP referred to Post-mortem report to show that death was caused due to injuries on the head and lever of the deceased and applicants Sakharam, Raosaheb and Badri were responsible to cause these injuries. Learned APP submits that considering the nature of offence and manner of incident applicants may not be released on bail.

7. On going through the FIR and statements of witnesses it can be seen that there was a dispute between parties on boundary of agricultural land. Incident occurred at 8:00 pm near Maruti temple. Statements of Sumitra, Uddhav and Sudarshan referred by learned APP show that they are widow and sons. Witness Rameshwar is nephew of deceased Sheshrao. So far as statements of other witnesses who arrived on spot after incident are concerned they are in verbatim identical.

8. In the light of the above and considering the previous animosity and also absence of statements of independent witnesses this Court is inclined to allow the applications. Hence the following order.

ORDER

(i) Criminal Application Nos. 5677 of 2015 and 5670 of 2015 are allowed.

(ii) Applicants Raosaheb Suryabhan Bongane, Badri Raosaheb Bongane, Namdeo Raosaheb Bongane,

Bhagwan Madhavrao Bongane and Sakharam Narayan Bongane are released on bail in Crime No. 157 of 2015 registered at Ambad Police Station, Tq. Ambad, Dist. Jalna for the offences punishable under Sections 302, 143, 147, 149, 324, 323, 504, 506 of the Indian Penal Code and Section 135 of the Bombay Police Act on their furnishing PR and SB of Rs. 25,000/- (Rupees Twenty Five Thousand) each.

- (iii) They shall not tamper with the prosecution evidence and shall make themselves available as and when required by the Investigating Agency.
- (iv) Applicants shall not enter village Shevga, Tq. Ambad, Dist. Jalna till conclusion of trial except in connection with the present case with prior intimation to police authority.

[INDIRA K. JAIN]

JUDGE