

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL APPLICATION (BA) NO.419/2015**

**(Sunil Rambhuvan Bahuriya and anr. ..vs.. The State of Maharashtra, through PSO
P.S. Ballarpur, Dist. Chandrapur)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. V. Sirpurkar, Advocate applicants.

Mr. A. D. Sonak, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATE : SEPTEMBER 2, 2015.

This is an application for bail. Applicants who are brothers, are arrested on 13.07.2014 in connection with Crime No.124/2014 registered with Police Station, Ballarsha, Dist. Chandrapur for an offence punishable under Sections 143, 147, 148, 149, 323, 326, 452, 120 (B), 109, 302 of the IPC.

Heard Mr. S.V. Sirpurkar, learned counsel for the applicants and Mr. A. D. Sonak, A.P.P. for the State in extenso.

The deceased-Shankar, is husband of the first informant Parvatabai. The FIR is dated 12.07.2014. According to the FIR, there was accusation against the deceased that he along with one Kanta Kasture have indulged themselves in black magic. Thereafter, the deceased was dragged to the Bamni square. He was beaten by presenta pplicatns along with other accused persons resulting into his death.

The investigation is over, charge-sheet has also been filed. The Post Mortem Report shows that the cause of death is head injury, which can be attributed to the fracture of skull.

According to the learned A.P.P., there are eye witnesses to the incident. I have gone through the statements of witnesses. The statements show that the deceased was assaulted by not only the present applicants but by the other co-accused by means of sticks. It is to be noted that in their statements it is not stated by them that the present applicants were armed with sticks. There are allegations in their statements against the present applicants that they dashed the head of the deceased on tractor. Further, it is crystal clear that apart from the present applicants and co-accused, other persons have also participated in the assault. Further, due to the darkness, these three eye witnesses were unable to recognize them.

The other co-accused are already released on bail by this Court. The statement of the eye witnesses are recorded after two months. In that view of the matter and looking to the fact that the charge-sheet is already filed and the assault by the accused persons was on account of nursing of grudge in their mind that the deceased along with one Kanta Kasture are indulged in the act of black magic, the

applicants can be released on bail on imposing some stringent conditions. This leads me to pass the following order.

ORDER

(i) Criminal Application (ABA) No.419/2015 is allowed.

(ii) Applicant no.1-Sunil Rambhuvan Bahuriya and applicant no.2-Anil Rambhuvan Bahuriya, shall be released on bail in Crime No.124/2014, for the offence punishable under Sections 143, 147, 148, 149, 323, 326, 452, 120 (B), 109, 302 of the IPC. registered with Police Station, Ballarshah, Dist. Chandrapur on they executing P.R. Bond in the sum of Rs.25,000/- each with one surety each in the like amount.

(iii) Applicant no.1-Sunil Rambhuvan Bahuriya and applicant no.2-Anil Rambhuvan Bahuriya, shall attend Police Station, Ballarshah once in a fortnight on Friday till culmination of the trial. On the said day, the applicants shall be with the Investigating Officer from 3.00 p.m. to 5.00 p.m.

(iv) The applicant shall not enter village Bamni till the trial is over or for a period of two years, whichever is earlier.

JUDGE