

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL APPLICATION (BA) NO.515/2015**

(Vijay Uttamrao Takore & anr..vs.State of Maharashtra, thr. PSO Anjangaon Surji.)

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

Court's or Judge's orders.

Mr. Shyam Dewani, Advocate for applicant.

Mr. P. V. Bhoyar, A.P.P. for non applicant no.1.

Mr. M. P. Kariya, Advocate for Intervenor.

CORAM : V. M. DESHPANDE, J.

DATE : SEPTEMBER 2, 2015.

This is an application for regular bail. The applicants are arrested in connection with Crime No. 166/2014 registered with Police Station, Anjangaon Surji for an offence punishable under Section 302, 307 read with Section 34 of the IPC.

Few facts will be essential for appreciating the case of the applicants for their prayer to release them on bail.

The applicants are accused in Crime No.166/2014. The said FIR is lodged by one Subhash Reche, father of the deceased Akshay. The occurrence is dated 23.08.2014 and it occurred in between 8.00 a.m. to 8.30 a.m. The FIR is lodged on 21.08.2014, however, the papers filed along with the charge-sheet shows that the police officer was knowing the fact of the occurrence since there is a communication of the Investigating Officer to the Medical Officer of Primary Health Centre, Anjangaon

Surji as to whether the injured is able to give his statement. The applicants approached before the Sessions Court prior to the filing of the charge-sheet and their application was considered favourably by the Courts below on 08.11.2014 and they were released on bail.

The first informant approached this Court by filing application under Section 439 (2) of the Code of Criminal Procedure. The said application was registered as Criminal Application No.121/2014 and this Court on 29.06.2015 found that the order passed by the learned Court below is not a speaking order in the sense the learned Judge of the Court below failed to consider the vital aspects of the matter. However, in the order dated 29.06.2015 it is observed that now the charge-sheet is already filed, therefore, the while cancelling the bail granted in favour of the applicants, the direction was given to the learned court below to consider the bail application filed on behalf of the applicants afresh in the light of the material available in the charge-sheet. This Court also protected the applicants for a period of four weeks.

After such an order from this Court, the application of the applicants was decided on 16.07.2015 by Court below and their bail application was rejected. They are taken into the custody.

According to the FIR, the role attributed to the applicant no.1 is that he caught hold of the deceased Akshay whereas applicant no.2 dealt with iron rod blow on the head of the deceased.

The post mortem report shows that there are three sutured wounds whereas the fourth is contusion. The cause of death, as recorded by the Autopsy Surgeon is; complications due to head injury in an operated case (un-natural). The date of incident is of 23.08.2014 whereas the death of Akshay occurred on 28.08.2014. During this period, he was under the medical treatment.

In that view of the matter, the cause of death, as observed by the autopsy surgeon, assumes its own importance. Further, after the bail was granted in favor of the present applicants on earlier occasion and they were directed to attend the Police Station on every Wednesday. The said condition imposed upon them was scrupulously followed by the applicants. Even today, there is no dispute on this aspect by the learned A.P.P. Further, it is not the case of the prosecution that the applicants have misused the liberty granted by this Court to the prejudice of the case or any of the prosecution witness.

The trial court itself has observed that there is a remote possibility that the applicants will

not be available to the course of justice. Further, there is no dispute on the part of the prosecution as submitted by the applicants through the affidavit of one Smt. Alka Takore who says that there is a huge pendency of the sessions trials in the trial Court and there is a little possibility of the sessions trial being taken up for its consideration in the near future. The evaluation of the aforesaid leads me to pass the following order:

ORDER

- (i) Criminal Application (BA) No.515/2015 is allowed.
- (ii) The applicant no.1-Vijay Uttamrao Takore and applicant no.2-Vinod Uttamrao Takore shall be released on bail in Crime No.166/2014 registered with Police Station, Anjangaon Surji, Dist. Amravati for an offence punishable under Sections 302, 307 read with Section 34 of the IPC on they executing P.R. Bond in the sum of Rs.30,000/- each with two solvent sureties.
- (iii) Bail before the trial Court.
- (iv) The applicants shall not enter in the vilalge Dahigaon (Reche) for a period of two years from their release or culmination of trial whichever is earlier.
- (v) The applicants shall attend Police Station, Anjangaon Surji, Dist. Amravati once in a fortnight on

Thursday till the charge is framed. After framing of the charge, the applicants shall abide by the conditions that may be imposed upon them by the Court. On the day of attendance, the applicants shall be with the Investigating Officer from 3.00 p.m. to 5.00 p.m.

JUDGE

kahale