

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) No. 657/2015
IN CRIMINAL APPEAL NO. 354/2015.

Pralhad Gunwant Madhar and another.

-VERSUS-

The State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B.P. DHARMADHIKARI
& V.M.DESHPANDE, JJ.

DATE : DECEMBER 14, 2015.

Heard Shri R.M. Patwardhan, learned
Counsel for applicants/appellants and Shri S.M. Ukey,
learned Addl. P.P. for respondent.

2. A Medical Practitioner/Husband and his
wife are before this Court assailing judgment of
conviction dated 09.09.2015. They are held guilty
under Sections 302 and 506 (ii) of Indian Penal Code.
The offence has taken place on 29.12.2010.

3. Having heard learned counsel for the
parties, we find that the alleged handing over of cash
of Rs. 7 lakhs in the year 2005 by the deceased to the

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appellants to procure some agency is stated to be the cause of assault. P.W.1 – daughter of deceased claims to have witnessed the assault. The cause of death is head injury, and weapon used is stick. Prosecution claims that at 7 p.m. in the night, P.W.1 – daughter saw appellant no.2-wife holding the deceased and appellant no.1-husband assaulting with a stick, which is about 4 feet 1 inch in length.

4. According to learned counsel for the applicants, looking to the post mortem report, nature of injuries and weapon, there was no scope for blood of deceased to spread over the clothes of accused persons. He states that witnesses on recovery/seizure of clothes and stick have turned hostile. He also points out that though blood group of deceased is stated to be “B”, only human blood could be detected on saree of applicant no.2.

5. According to the learned A.P.P., this material is sufficient and no bail can be granted at this stage.

6. Learned counsel for the applicants adds that the couple were out on bail during the pendency of the appeal and they have a marriageable daughter.

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7. In this situation, we have perused the post mortem report, evidence of P.W.1. We are not inclined to release the applicant no.1 – husband on bail. However, the applicant no.2 – wife namely Sou. Indubai Pralhadrao Madhar is released on bail on the same terms and conditions, as in trial Court, during the pendency of this appeal.

8. Criminal Application is, thus partly allowed and disposed of.

JUDGE

JUDGE

Rgd.