

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APPA] No. 590 of 2014
IN
Criminal Appeal No.499 of 2014
[Baburao Mahadeorao Thorat & another Vs. State of Mah. through
PSO, PS Shirkhed, Tq. Morshi, Distt. Amravati]

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

Court's or Judge's orders

Mr. R.M. Daga, Adv., for the Applicants.
Mr. T.A. Mirza, APP for respondent-State.

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**CORAM : A.B. CHAUDHARI AND
P.N. DESHMUKH, JJ.**

DATE : 18th February, 2015.

This is an application for bail by the appellants-accused persons.

We have heard learned counsel for the rival parties. We have perused the entire evidence. We have perused the impugned judgment.

Admittedly, the prosecution case is not based on any direct evidence, but is based on the circumstantial evidence. In para 41 of the Judgment of the Trial Court, circumstances have been reproduced, which are as under:-

“41. Therefore, from the evidence discussed

herein above I found that prosecution has proved the following circumstances:-

- (i) That deceased Gopal had been to accused's house at Nerpinglai on 12.11.2010 along with accused no.3 and their children.
- (ii) Since then deceased did not return to his house at village Kekatpur.
- (iii) Till 27.11.2010 accused not taken steps to inquire about the deceased.
- (iv) In spite of came to know by accused that deceased had not been to Kekatpur, accused no.3 wife of deceased not took any steps.
- (v) On 28.11.2010 PW 2 Laxmibai had been to the house of accused to inquire.
- (vi) On 28.11.2010 PW 2 Laxmibai lodged report Exh.65 wherein she has shown her suspicion on accused but police registered it as missing complaint.
- (vii) On 29.11.2010 police inquired and on the same day PSI PW 6 Nithale intimated the information received from accused to SDPO.
- (viii) On 29.11.2010 immediately the work of excavation was taken at hand and the body of deceased was recovered.
- (ix) The body was recovered from the pit from the place which is very closed to the house of accused.
- (x) The post mortem report and evidence of PW 1 Dr. Subhangi Dharwade finds that death of deceased was homicidal.
- (xi) I has been also established that before the

incident, deceased was only in the company of accused.

- (xii) The motive for the crime has also been proved."

From perusal of the above circumstances, prima facie, we find that there could be no conviction. They are not the circumstances as such to convict the appellants of the serious offence of murder.

That apart, we find that the appellant no.1 is aged about 50 years, while appellant nos. 2 and 3 are the women.

We are satisfied that the applicants deserve grant of bail. Hence the following order:-

ORDER

[a] Criminal Application No. 590 of 2014 is allowed.

[b] The Applicants be released on bail pending present appeal, upon furnishing a Personal Bond in a sum of Rs.10,000-00 [rupees ten thousand only] with one surety in the like amount each.

Judge

Judge

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