

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

CRIMINAL APPLICATION NO.60 OF 2016

1. Vilas s/o Kisanrao Gajalwar,
Age 56 years, Occu. Business
R/o Mangalwara, Hingoli,
Taluka and District Hingoli
 2. Amit s/o Vilas Gajalwar,
Age 28 years, Occu. Business
R/o As above
 3. Amol s/o Ganesh Kute,
Age 22 years, Occu. Auto-Rickshaw
driver, R/o as above
At present in jail custody
- ..Applicants

Versus

- . State of maharashtra,
Through Police Station Officer,
Police Station, Hingoli (Town),
Taluka and District Hingoli
- ..Respondent

- WITH -

CRIMINAL APPLICATION NO.78 OF 2016

1. Kiran @ Sonu s/o Vilas Gajalwar,
Age 22 years, Occu. Business,
R/o Mangalwara, Hingoli,
Taluka and District Hingoli
 2. Rajesh @ Raju s/o Gangaram Giri,
Age 23 years, Occu. Labourer,
R/o Luvkush Nagar,
Khatkali area, Hingoli
(at present in jail custody)
- ..Applicants

Versus

- . State of maharashtra,
Through Police Station Officer,
Police Station, Hingoli (Town),
Taluka and District Hingoli
- ..Respondent

Mr R.N. Dhorde, Senior Counsel i/b Mr S.S. Londhe, Advocate for applicants

Mr S.J. Salgare, A.P.P. for respondent – State

Mr B.A. Agrawal, Advocate for complainant-assisting the A.P.P.

CORAM : N.W. SAMBRE, J.

DATE : 4th February 2016

PER COURT

Heard.

2. The applications at the behest of applicants Amol s/o Ganesh Kute, Kiran @ Sonu s/o Vilas Gajalwar and Rajesh @ Raju s/o Gangaram Giri are not pressed, hence stand dismissed.

3. The applicants referred above will be at liberty to move the application upon receipt of report from Forensic Science Laboratory in relation to the weapon used.

4. The applicants Vilas s/o Kisanrao Gajalwar and Amit s/o Vilas Gajalwar in Criminal Application No.60 of 2016 are seeking regular bail in Crime No.176 of 2015 registered at Hingoli (Town) Police Station, District Hingoli, for the offences punishable under Sections 302, 120-B, 341 read with Sec.34 of Indian Penal Code.

5. Learned Senior Counsel for the applicants, while trying to make out a case for grant of bail would urge that the investigation in the matter is complete and charge-sheet is already filed, as such further detention of the applicants, particularly in the light of the evidence that is brought on record during investigation is not necessary. According to him, so far as both these applicants are concerned, there are no direct attributions against them as regards involvement in the crime in question, but for hatching conspiracy.

6. With the assistance of learned Senior Counsel, I have perused various statements i.e. statements of servants, who was working in a hotel of deceased and also the person, who had handed over the knife i.e. Rahulsinh Gahelot.

7. Learned A.P.P. while opposing the application would urge that so far as above referred applicants are concerned, there are C.D.R. report, which depicts that they are in touch with each other before and after the incident in question. He would then urge that the fact about hatching the conspiracy could be ascertained from the communication between the accused persons. He would further urge that in view of dispute in relation to business of running of sugarcane juice outlet, the enmity between the deceased and applicants is on record. He prayed for rejection of the application.

8. Having bestowed my anxious thoughts to the submissions made, there is hardly any evidence on record to prima facie infer that applicant Vilas and Amit are directly involved in the commission of crime in question. The statements of witnesses depict only about the business rivalry and not any direct attributions against these applicants about their involvement in the crime in question.

9. The prosecution story as against the applicants is based on circumstantial evidence and though reliance is sought to be placed on C.D.R report, however, in my opinion, the same is not sufficient to prima facie form an opinion to connect the applicants Vilas and Amit to the crime in question. In view of above background, in my opinion, applicants Vilas and Amit are entitled to be released on bail.

10. As such, the applicants in Criminal Application No.60 of 2016, Vilas s/o Kisanrao Gajalwar and Amit s/o Vilas Gajalwar be released on bail in Crime No.176 of 2015 registered at Hingoli (Town) Police Station, District Hingoli, for the offences punishable under Sections 302, 120-B, 341 read with Sec.34 of Indian Penal Code, upon furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount, by each of them.

11. Criminal Application No.60 of 2016 stands allowed in above terms.

(N.W. SAMBRE, J.)

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