

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

CRIMINAL APPLICATION NO.92 OF 2016

1. Ramesh s/o Navnath Kokate,
Age 28 years, Occu. Agri.,
R/o Village Nipani, Taluka Bhoom,
District Osmanabad
2. Navnath s/o Bhagwan Kokate,
Age 60 years, Occu. Agri.,
R/o Village Nipani, Taluka Bhoom,
District Osmanabad
(At present are in jail) .. Applicants

Versus

- . The State of Maharashtra .. Respondent

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

Mr K.D. Mundhe, A.P.P. for respondent

Mr A.N. Nagargoje, Advocate for complainant assisting A.P.P.

CORAM : N.W. SAMBRE, J.

DATE : 2nd February 2016

PER COURT

Heard.

2. The applicants are seeking regular bail in Crime No.147/2015, registered at Vashi Police Station, District Osmanabad, for the offences punishable under Sections 302, 307, 323, 504 and 506 read with sec. 34 of Indian Penal Code.
3. It is required to be noted that the investigation in the matter is complete and charge-sheet is already filed.
4. The prosecution case against the present applicants is, one Sadashiv Dharmaraj Anbhule has lodged complaint that the present applicants along with one Umesh Kokate have assaulted him, which resulted into his death.

5. While trying to make out a case for grant of bail, learned Senior Counsel Mr Dhorde would strenuously urge that the entire episode is having background of political enmity. So as to substantiate the same, he has invited attention of this Court to the attributions to that effect in the F.I.R. He would then urge that applicant No.1, Ramesh alias Rajabhau has time and again raised a plea before the Investigating Officer, so also before this Court that at the relevant time, when the incident was happened, he was not present on the spot. According to him, upon his request the Investigating Officer has collected the CCTV footage of the High Court at Bombay, Bench at Aurangabad, where he visited on the same day i.e. on 26th August 2015, for filing caveat, on behalf of an elected member of his panel. In addition, he would submit that thereafter he was available at Beed, CCTV footage of which is required to be looked into. In the above background, he would urge that the applicant No.1 - Ramesh alias Rajabhau is falsely implicated in the crime in question.

6. The next limb of argument is that the applicant No.2, Navnath, father of applicant No.1 Ramesh is also falsely implicated in the crime as he heads the panel, which has secured majority in the elections of Gram Panchayat. According to him, the role attributed to applicant No.2, Navnath is, he caught hold of Sadashiv and fell him down. He would then urge that there are no specific attributions so as to infer that both the applicants were responsible for causing death of deceased Sadashiv.

7. Learned A.P.P., who was assisted by Mr Nagargoje, learned Counsel for the complainant would urge that there is strong evidence as against both the applicants.

8. Learned A.P.P. has fairly brought to the notice of this Court that from the CCTV footage, collected on 26th August 2015 of this High Court Bench and that of ATM Center located at Petrol Pump near Sahyadri Hospital, on Beed-Jalna road depict presence of applicant Ramesh alias Rajabhau at around 11.30 a.m. in the High Court, Bench at Aurangabad and at about 3.35 p.m. to 3.40 p.m. near Beed.

9. According to learned A.P.P., so far as the case of applicant No.2 Navnath is concerned, there are eye witnesses to the incident.

10. Mr Nagargoje, learned Counsel for the complainant through learned A.P.P. has invited attention of this Court to the statements of eye witnesses, Mohan Uttam Anbhule and Navnath Kondiba Anbhule, recorded under Section 164 of Cr.P.C. and the narration disclosed by the deceased to his wife as regards involvement of both the applicants in the crime. He prayed for rejection of application.

11. With the assistance, I have perused the entire investigation papers. From the investigation and from the report of Investigating Officer of CCTV footage of 26th August 2015, collected from the High Court at Bombay, Bench at Aurangabad, it was brought to my notice that applicant Ramesh alias Rajabhau was present in High Court, Bench at Aurangabad, for filing caveat in one of the Gram Panchayat election matter on behalf of one of the members of their panel. Presence of applicant No.1 Ramesh alias Rajabhau was ascertained by

Investigating Officer from the CCTV footage of High Court, Bench at Aurangabad, as is reflected from the report of Investigating Officer. On 26th August 2015, he was present in this High Court Bench at about 11.30 a.m. and thereafter his presence at 3.30 p.m. was noted near Petrol pump, Beed, where he operated ATM Card of State Bank of India. His presence on that spot could be ascertained from the said ATM Center. The F.I.R. alleges that the incident is dated 26th August 2015 at 3.30 p.m.

12. In this background, in my opinion, there is strong improbability of involvement of applicant Ramesh alias Rajabhau in the crime in question.

13. So far as applicant No.2 Navnath is concerned, it is brought to my notice that the voting of Gram Panchayat elections took place on 4th August 2015 and counting of the same was on 6th August 2015. There is existing election dispute in between the panel of applicants and their rivals.

14. Apart from above, the role attributed to both the applicants is, both of them have caught hold of Sadashiv, so as to facilitate the third accused namely Umesh to assault deceased with a rod. The careful perusal of the statement of above referred witnesses depicts that the role attributed to both the applicants is that of hitting deceased with kick blows and falling him down, however, it cannot be inferred from the statement by plain reading that applicants have facilitated Umesh, the main accused to assault the deceased with rod, which has resulted into death of Sadashiv.

15. It is required to be noted that the prosecution itself has brought on record evidence about absence of Ramesh alias Rajabhau on the spot.

16. In view of above background, particularly having regard to the political enmity and the observations made herein above, false implication of applicant No.2, Navnath cannot be ruled out. There is no direct evidence that he has either killed the deceased or facilitated the main accused for killing deceased Sadashiv.

17. In view thereof, in my opinion, it will be appropriate to order release of the applicants. Hence, I proceed to pass the following order.

(I) The applicants Ramesh alias Rajabhau Navnath Kokate and Navnath Bhagwan Kokate be released on bail in Crime No.147/2015, registered at Vashi Police Station, District Osmanabad, for the offences punishable under Sections 302, 307, 323, 504 and 506 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.

(II) In view of political enmity between the parties, the applicant No.2 Navnath Bhagwan Kokate shall not enter the village Nipani for a period of one year.

18. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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