

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

CRIMINAL APPLICATION NO.576 OF 2016

1. Balu s/o Vishwanath Kudal,
Age 42 years, Occu. Agri.,
R/o Rajalwada, Taluka Sillod,
District Aurangabad

2. Yogesh s/o Baburao Dudhe,
Age 27 years, Occu. Agri.,
R/o as above
(at present in Magesterial
Custody in Central Prison,
Aurangabad)

..Applicants

Versus

. The State of Maharashtra,
Through Police Station,
Sillod (City), District Aurangabad

..Respondent

Mr S.J. Salunke, Advocate for applicants
Mr K.D. Mundhe, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 22nd February 2016

PER COURT

Heard.

2. The applicants are seeking regular bail in Crime No.I-112 of 2015, registered at Sillod Police Station, District Aurangabad, on 23rd October 2015, for the offence punishable under Section 302 of the Indian Penal Code.

3. The prosecution case against the applicants is, deceased Rameez was running a Pan-Bidi shop. Shaikh Hafiz Shaikh Yasin, his father, upon telephonic intimation received from his brother Shaikh Akil Shaikh Yasin, lodged complaint about death of Rameez. It is

claimed in the F.I.R. that deceased Rameez was murdered, as on the spot certain blood stains, an electric wire, empty liquor bottles were noticed. It is also stated in the F.I.R. that the spot of incident reflects the physical exchanges between the parties.

4. Upon suspicion, the applicants were arrested, though no role is attributed to them in the F.I.R. The applicants were subjected to P.C.R.

5. While trying to make out the case for grant of regular bail, learned Counsel for the applicant would urge that the applicants are falsely implicated in the crime in question, based on circumstantial evidence. He would submit that there is hardly any material on record to connect the present applicants to the crime in question. He would then urge that during police custodial remand, nothing was seized or discovered at the behest of the present applicants. According to him, based on the circumstantial evidence, the applicants cannot be detained any more, particularly jeopardise their liberty.

7. Learned A.P.P. assisted the Court through the investigation papers and submits that the applicants were arrested on suspicion and subjected to interrogation. According to him, cufflinks have been recovered from the spot and a torn shirt was recovered from one of the accused from his house, which connects the applicants to the commission of crime in question. According to him, the investigation is at preliminary stage, as such the application be rejected.

8. It is required to be noted that applicants were arrested on 17th December 2015 on suspicion. The material that is available on record to connect the applicants to the crime in question, as is reflected in investigation papers appear to be the shirt of which a part was recovered from the house of the accused i.e. the cufflink, which shirt was claimed to be of one of the accused herein.

9. Upon perusal of investigation papers and its analysis, it is very hard to believe that the body of Rameez as was discovered floating on the water at the spot of incident was having one shirt. As such, in any case, the shirt that is seized cannot be claimed to be of deceased Rameez and even that does not appear to be story of prosecution. Apart from above, the only piece of evidence to connect the applicants is the recovery of cufflinks, which has formed to be the piece of the shirt, recovered from the house of one of the accused. The investigation depicts, particularly from the contents of F.I.R., that deceased Rameez initially was subjected to assault, as blood stains were noticed on the spot. There are no such blood stains noticed on the shirt, which was recovered from the accused.

10. In my opinion, detaining the applicant further, only on suspicion cannot be permitted, particularly when they were already subjected to custodial interrogation.

11. As such, Criminal Application stands allowed. The applicants be released on bail in Crime No.I-112 of 2015 registered at Sillod Police

Station, Aurangabad, on 23rd October 2015, for the offence punishable under Section 302 of the Indian Penal Code, upon furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount, by each of them.

(N.W. SAMBRE, J.)

vvr