

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

CRIMINAL APPLICATION NO. 835 OF 2016

Raju s/o Namdeo Dheple,
Age: 22 years, Occ: Agri.,
R/o. Bodegaon, Tq. Phulambri,
Dist. Aurangabad.

...Applicant

versus

The State of Maharashtra,
Through the Wadod Bazar Police Station,
Tq. Phulambri, Dist. Aurangabad.

...Respondent

WITH

CRIMINAL APPLICATION NO. 426 OF 2016

Suresh s/o Baburao Kunte,
Age: 30 years, Occ: Agri.,
R/o. Bodhegaon (Bk), Tq. Phulambri,
Dist. Aurangabad.

...Applicant

versus

The State of Maharashtra,
Through the Wadod Bazar Police Station,
Tq. Phulambri, Dist. Aurangabad.

...Respondent

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Mr. K.A. Ingale, Advocate for applicant in Criminal
Application No. 835 of 2016
Mr. M.R. Jadhav, Advocate for applicant in Criminal
Application No. 426 of 2016
Mr. S.P. Deshmukh, A.P.P. for respondent/State
Mr. B.S. Bhale, Advocate for complainant
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CORAM : N.W. SAMBRE, J.

DATE : 25th FEBRUARY, 2016

ORAL ORDER :

The applicants are seeking regular bail in Crime No. I-

126 of 2015 registered with Wadod Bazar Police Station, Taluka Phulambri, District Aurangabad for the offence punishable under Sections 302, 201, 120-B, 504, 506 read with Section 34 of Indian Penal Code and under Sections 3(1)(10),3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The prosecution story against the applicants that the applicants were responsible for the death of Kalyan, a young boy belonging to reserved category. His father Gautam lodged complaint on 28/01/2015 that his was murdered by one Bajirao Karpe and Rajiv Karpe.

3. The applicants were arrested in the crime in question.

4. While trying to make out a case for grant of bail, learned Counsel for the applicants would urge that there is hardly any role attributed to the applicants in question. According to them, deceased Kalyan died due to Cardio-respiratory-arrest due to Electro-causation, as is apparent the cause cited in postmortem report and to that effect, the observations are made in the order by learned Sessions Court. It is not the case of prosecution as against the present applicants that the applicants were responsible for Electro-causation to the deceased Kalyan.

5. Learned A. P. P. opposed the application. Learned A.P.P. is assisted by Mr. Bhale, learned Counsel for the complainant. It is submitted that the main accused Bajirao Karpe and Rajiv Karpe, who are named in the F. I. R. and still absconding. The investigation is at preliminary stage and in case, if the applicants are released on bail, same will hamper further investigation in the matter.

6. Perused the investigation papers. The alleged eye witness to the incident Eknath Dheple has stated about presence of other accused but for the present applicant. He claimed to have witnessed that one Sagar and Sonya were taking down body of deceased Kalyan from the roof of public school. It is in categorical terms stated that, the applicants were not present on the spot and said Sagar and Sonya were waiting for arrival of the applicants. In my opinion, looking to the cause of the death as cited and absence of any external injuries on deceased Kalyan, *prima facie* involvement of the applicants itself is doubtful. I am supported in above view by the statement of alleged eye witness Eknath.

7. In that view of the matter, the application needs to be allowed. Hence I pass following order :-

The applicants be released on bail, in connection with the Crime No. I-126 of 2015 registered with Wadod Bazar Police Station, Taluka Phulambri, District Aurangabad for the offence punishable under Sections 302, 201, 120-B, 504, 506 read with Section 34 of Indian Penal Code and under Sections 3(1)(10),3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount, by each of them. They shall not enter the jurisdiction of concerned police station till filing of charge sheet.

8. Both the applications are allowed in above terms.

[N.W. SAMBRE, J.]