

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

CRIMINAL APPLICATION NO. 1040 OF 2016

1. Govind S/o Madhavrao Malfedwar,
Age : 35 years, Occu. Business.
2. Shivchandra @ Baban S/o. Madhavrao Malfedwar,
Age : 43 years, Occu. Business,
Both R/o. Shirurtajband, Tq. Ahmedpur,
Dist. Latur. ... Applicants

VERSUS

The State of Maharashtra ... Respondent

.....
Mr Tukaram M. Venjane, Advocate for the applicants
Mr S. P. Deshmukh, APP for respondent/State
.....

CORAM : **N. W. SAMBRE, J.**

DATE : **25TH FEBRUARY, 2016.**

PER COURT:

1. By this application, the applicants herein are seeking regular bail in Crime No. 47 of 2015 registered at Jalkot Police Station, Dist. Latur, for the offences punishable under Sections 363, 365, 341 read with 34 of the Indian Penal Code later on offence under Sections 302, 201, 120(B) of the Indian Penal Code.

2. The applicants came to be arrested on 22.12.2015.

3. The prosecution case against the present applicants is that, the applicants entered into an agreement with Mangesh Vaijnath Kotalwar who happened to be son-in-law of the complainant namely; Dilip Rajaram Kondawar in the matter of sale of a plot. It is claimed that, said transaction took place out of some outstanding amount in the business of vegetables in which Mangesh along with his brother-in-law Rohit have suffered losses.

4. The prosecution case is that, Rohit was kidnapped and murdered and his body was disposed of in the State of Karnataka.

5. The applicants herein were the suspects in the said crime as applicants had threatened Mangesh of dire consequences. Mangesh was subjected to arrest in a crime at the behest of the present applicants in the matter of offence punishable under Section 420 of the Indian Penal Code in Ahmedpur Police Station.

6. The applicants were arrested by the Investigating Officer in the crime in question and were subjected to custodial interrogation.

7. While trying to make out a case for regular bail, Shri. Venjane, learned counsel for the applicants would urge that, during the interrogation no evidence could be noticed as against the present applicants who have been involved in the crime in question. So as to support the said contention, he has invited attention of this Court to the report submitted by the Investigating Officer on 22.01.2016 to the Court of Sessions, Udgir. In addition, the learned counsel for the applicants would submit that, after the custodial interrogation of the applicants, their further detention is not necessary as nothing could be found against them to connect them to the heinous crime of murder of Rohit.

8. Learned APP fairly conceded that there is no direct evidence against the present applicants to connect them to the crime in question. He would urge that, there was some loan transaction between the applicants and brother-in-law of the deceased namely; Mangesh. He would then urge that, Mangesh was arrested by the Ahmedpur police in a crime registered against the Mangesh at the behest of the present applicants and as such, there is animosity between the applicants and Mangesh which has resulted into kidnapping of his brother-in-law namely; Rohit and his murder.

9. Having bestowed my thoughts to the submissions made by the learned counsel and upon perusal of the investigating papers, it is required to be noted that, the applicants were named as suspects in the crime in question and were arrested initially on suspicion with another accused namely; Ishwar. It is revealed upon custodial interrogation and further investigation that the another accused Shankar Kadam with the aid of the another accused kidnapped and murdered Rohit.

10. Apart from the statement of the parents of the deceased Rohit expressing suspicion about present applicants' involvement, there is no direct evidence on record to connect the present applicants to the crime in question.

11. There are no criminal antecedents against the present applicants and the investigation in the matter has reached to an advanced stage, their further detention, in my opinion, is not necessary.

12. In view thereof, the following order is passed.

ORDER

- (I) The Criminal Application is hereby allowed.
- (II) The applicants in Crime No. 47 of 2015 registered at Jalkot Police Station, Dist. Latur, for the offences punishable

under Sections 363, 365, 341 read with 34 of the Indian Penal Code later on offence under sections 302, 201, 120(B) of the Indian Penal Code, be released on bail on their furnishing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each, with one surety in the like amount.

- (III) Till the investigation is over, the applicants shall not enter into the jurisdiction of the police station where the complainant is residing.

[N. W. SAMBRE]
JUDGE

sgp