

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

CRIMINAL APPLICATION NO. 2408 OF 2016

1] Sandip s/o Devrao Ranjane
2] Rahul s/o Dhondiba Nagare ...Applicants

VERSUS

The State of Maharashtra ...Respondent

.....
Shri P.P.More, advocate for applicants
Shri S.D.Ghayal, A.P.P. for respondent/State
.....

WITH

CRIMINAL APPLICATION NO. 3356 OF 2016

Sakharam s/o Sheshrao Vanarse ...Applicant

VERSUS

The State of Maharashtra ...Respondent

.....
Shri S.J.Salunke, advocate for applicant
Shri S.D.Ghayal, A.P.P. for respondent/State
.....

CORAM : V.K.JADHAV, J.

DATED : 19th JULY, 2016

PER COURT :-

Heard learned counsel for the applicants in both the Criminal Applications and the learned A.P.P. for the respondent/State. Perused the charge sheet.

2. On the basis of the complaint lodged by one Suvarna Datta Parve, dated 17.11.2015, Crime No. 223 of 2015 came to be registered at Ambad police station, District Jalna, for the offences punishable under Section 302 r/w 34 of the Indian Penal Code against the present applicants.

3. It is alleged in the complaint that the applicants in furtherance of their common intention committed murder of the husband of informant Suvarna between the night of 12.11.2015 and 13.11.2015. All the applicants came to be arrested on 17.11.2015 and since then all of them are in jail.

4. Applicants/accused Sandip and Rahul have preferred Criminal Application No. 2408 of 2016 and applicant/accused Sakharam has preferred Criminal Application no. 3356 of 2016 for getting released on bail. Their applications with similar prayer came to be rejected by the Ad hoc Additional Sessions Judge-3 Jalna.

5. The learned counsel for the applicants submits that the prosecution case entirely rests upon the circumstantial evidence and there is only evidence to the effect that the deceased was lastly seen in the company of the applicants/accused in the night of 12.11.2015 and thereafter on the next day his dead body was found. The learned counsel for the applicants submits that there is no further connecting evidence against the applicants. Furthermore, there is absolutely no evidence about the motive. The applicants are in jail for considerable time.

6. Learned A.P.P. submits that there is strong prima facie case against all the applicants. During the course of investigation, it was revealed that in the night of 12.11.2015 deceased Datta consumed liquor with the applicants in the house of one Kanta Kamble and after consuming liquor the quarrel had taken place between them. It was further revealed in the investigation that all the applicants took deceased Datta with them on motor cycle and at that time deceased Datta was loudly calling not to beat him. Learned A.P.P. submits that on the next day in the morning the dead body of deceased Datta was found within the limits of village Pimparkhed.

7. It appears from the charge sheet that the prosecution case entirely rests upon the circumstantial evidence. Needless to state, when prosecution case entirely rests upon circumstantial evidence, motive plays great role. In this case motive is lacking. There was no reason for the applicants to commit the murder of

deceased Datta for such trifling reasons. During the course of investigation it was only revealed that in the night of 12.11.2015 the applicants and deceased Datta consumed liquor in the house of one Kanta Kamble and thereafter on account of some quarrel they left the place. It is also a part of investigation that the applicants took away deceased Datta with them on motor cycle and thereafter on the next day the dead body of Datta was found. Except this circumstance there is no other evidence to connect the applicants with the alleged crime.

8. During the course of investigation the clothes of the applicants came to be seized by the investigating officer. There were no blood stains on the clothes of the applicants/accused. Furthermore, no weapon is recovered at the instance of the applicants. In column no.17 of the postmortem report the contusions and the abrasions are mentioned and the cause of death is cardio respiratory arrest secondary due to

fracture of 3,4,5,6,7 ribs. One stone is recovered from the spot, however, there is no further evidence collected during the course of investigation to connect the present applicants with the alleged crime.

9. In view of the above, the applicants are entitled to be released on bail with certain conditions. Hence the following order.

O R D E R

(i) Both the Criminal Applications are allowed.

(ii) The applicants Sandip, Rahul and Sakharam be released on bail in connection with Crime No. 223 of 2015 came to be registered at Ambad police station, District Jalna, for the offences punishable under Section 302 r/w 34 of the Indian Penal Code, on their furnishing personal bond of Rs.20,000/- (Rs. Twenty Thousand only) each, with one solvent surety in the like amount by each of them.

(iii) The applicants shall not tamper the with

prosecution evidence in any manner.

(iv) The applicants shall not enter the limits of village Chinchkhed, Taluka Ambad, District Jalna, till further orders of this Court.

(v) The applicants shall attend the Ambad police station once in a week on every Monday between 9.00 a.m. and 11.00 a.m. till further orders.

(vi) Bail before the trial Court.

(vii) Applications are accordingly disposed of.

(V.K.JADHAV, J.)

dbm/crap2408.16