

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2522 OF 2016

1] Sunny S/o. Vashisth Kale
 Age : 19 years, Occu.: Agril.,
 R/o Indiranagar, Zopadpatti,
 Bhoom, Tq. Bhoom, Dist. Osmanabad

2] Ganesh S/o Machindra Kale,
 Age : 19 years, Occu.: Agril.,
 R/o. As above

3] Satish S/o Machindra Kale,
 Age : 19 years, Occu.: Agril.,
 R/o As above

.. Applicants
 [Orig. Accused Nos.
 11, 12 and 13]

Vs.

The State of Maharashtra
 Through the Police Station Bhoom,
 Tq. Bhoom, Dist. Osmanabad

.. Respondent

.....
 Mrs. S.K. Doke, Advocate for the applicants
 Mr. S.Y. Mahajan, APP for the respondent-State

CORAM : N.W. SAMBRE, J.
DATE : 05/07/2016

ORAL ORDER :

Heard.

2. The applicants are seeking regular bail in

Crime no.99 of 2015 registered at Bhoom Police Station, Tq. Bhoom, Dist. Osmanabad for the offences punishable under section 302, 324, 323, 143, 144, 147, 148, 149 of the Indian Penal Code and under section 3, 4/25 of the Indian Arms Act.

3. All the 16 accused persons, who are belonging to a specific community have murdered one Shankar, the husband of the complainant – Indubai on 21/8/2015.

4. The applicants came to be arrested on the very same day and it is the case of the applicants that nothing is seized from the applicants and there are vague allegations against the applicants.

5. Learned counsel for the applicants would submit that since crime no. 91 of 2015 for the offences punishable under section 324, 323, 506, 504 r/w. 34 of the Indian Penal Code was registered against the brother of the complainant Indirabai, namely, Kalyan Kale, on August 8, 2015, so as to

falsely implicate the applicants, the present crime came to be registered.

6. Learned counsel for the applicants then would submit that upon perusal of the entire investigation papers, it can be seen that there is no discovery under section 27 of the Indian Evidence Act and nothing incriminating was recovered against them. Eye witnesses do not attribute specific role to the applicants. According to learned counsel for the applicants, the applicants are entitled to be released on bail, as chargesheet in the matter is already filed.

7. Learned A.P.P. strenuously opposed the application on the ground that the applicants were members of unlawful assembly and have actively participated in the commission of the crime in question. Learned A.P.P. then would submit that apart from above, number of criminal cases are registered against each of the applicants and the

earlier bail application was withdrawn and there is no subsequent development, which prompts to move the present application.

8. Having considered the rival submissions, it is to be noted that against each of the applicants, following offences are registered and pending.

Against applicant No. 1 - Sunny S/o. Vashisth Kale :

Sr. No.	Crime No.	Police Station	Offences punishable under section
1	43/2010	Bhoom Police Station	379 of IPC
2	55/2011	Bhoom Police Station	379 of IPC
3	91/2013	Bhoom Police Station	392, 34 of IPC

Against applicant No. 2 - Ganesh S/o Machindra Kale :

Sr. No.	Crime No.	Police Station	Offences punishable under section
1	57/2011	Paranda Police Station	457, 380 of IPC
2	155/2013	Paranda Police Station	394 of IPC
3	131/2014	Paranda Police Station	401 of IPC
4	48/2014	Bhoom Police Station	324, 323, 34 of IPC
5	91/2013	Bhoom Police Station	392, 34 of IPC
6	99/2015	Bhoom Police Station	302, 143, 144, 147, 148, 149, 324 of IPC and section 3, 4/25 of Indian Arms Act

Against applicant No.3 - Satish S/o Machindra Kale :

Sr. No.	Crime No.	Police Station	Offences punishable under section
1	93/2008	Bhoom Police Station	147, 148, 149, 324 of IPC
2	57/2011	Paranda Police Station	457, 380 of IPC
3	123/2012	Tuljapur Police Station	324, 323, 34 of IPC
4	99/2015	Bhoom Police Station	302, 143, 144, 147, 148, 149, 324 of IPC and section 3, 4/25 of Indian Arms Act

9. Apart from above, the last bail application which was moved by the applicants, came to be withdrawn on 10/2/2016, just after filing of the chargesheet. Thereafter, this Court notices hardly any subsequent development or change in circumstance, which prompts the applicants to seek bail from this Court.

10. On merits, there are eye witnesses to the incident and the applicants are specifically named in the FIR with specific roles. Statement of the eye witness i.e. Indubai, her two daughters-in-law namely, Kavita Datta Kale and Lata Shyam Kale and

the statements under section 164 of the Code of Criminal Procedure speak about the prima facie involvement of the applicants in the crime in question. In view thereof, no case for grant of bail is made out. Application fails, stands rejected.

[N.W. SAMBRE]
JUDGE

arp/-