

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

918 CRIMINAL APPLICATION NO. 3002 OF 2016

**MOHAN S/O DHANSING RATHOD
& ORS.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. Shaikh Shafique A.R.Ahmad, Advocate for
Applicants.

Mr. S.J.Salgare, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 1st OCTOBER, 2016

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PER COURT :

1. The applicants/accused in Crime No. 147/2011 registered at Chakur police station, Tq. Chakur, Dist. Latur for the offences punishable u/ss 302, 201 read with 34 of the Indian Penal Code, by this application are praying for releasing them on bail after filing of the charge sheet.

2. Heard the learned counsel for applicants/accused. He argued that there is no strong proof against present applicants. The case of the prosecution is based on

circumstantial evidence. The learned counsel further argued that statements of witnesses are recorded under pressure of the police officer and, therefore, those statements are false and incorrect. One of the witnesses has given affidavit before the trial Court resiling from her earlier version. Therefore, according to the learned counsel, the applicants are entitled for bail.

3. The learned A.P.P. opposed the application by contending that there is direct evidence connecting applicants to the offence punishable u/s 302 of the Indian Penal Code. He drew my attention to the statement of witnesses, viz. Yashoda Santosh Ade, Meerabai Shankar Jadhav, Shivaji Kisan Jadhav and Parasram Sitaram Rathod. The learned A.P.P. argued that these witnesses saw the incident. He further argued that Rajkumar Motiram Chavan has disclosed the act of destroying evidence by the applicants. Therefore, according to the learned A.P.P., the applicants are not entitled for bail.

4. Perused the charge sheet. Applicant No. 1 Mohan s/o Dhansing Rathod is father-in-law, applicant No. 2 Ashok @ Deelip Mohan Rathod is brother-in-law, applicant No. 3 Anjana w/o Mohdn Rathod is mother-in-law whereas applicant No. 4 Chaya w/o Govind Jadhav is widow of deceased Govind Dagadu Jadhav. According to the prosecution case, for attending the marriage of cousin sister-in-law, Govind Dagdu Jadhav went to Bothi Tanda on 28/05/2015. Applicant No. 4 Chaya was already with her parents at Bothi Tanda at that point of time. According to the

prosecution case, all accused persons committed murder of Govind Dagdu Jadhav at their house on 03/06/2015 and then knowing commission of offence by them, they have intentionally destroyed the evidence of commission of offence by disposing of that dead body in a wagon of train at Nageshwadi railway station. According to the prosecution case, ultimately unclaimed dead body was found in a wagon at railway station at Aurangabad and on 06/06/2015, informant Dagdu Dhansing Jadhav identified that dead body to be that of his son Govind Dagdu Jadhav.

5. Case of the prosecution rests on eye witness account of the incident coming from the mouth of Yashoda Santosh Ade – daughters of applicant Nos. 1 and 3 and sister of applicant Nos. 2 and 4. As per her version about the incident, on 03/06/2015 in the evening hours, there was quarrel between Govind and Chaya. Govind was not allowing Chaya to go to the house of her Aunt to participate in 'Haldi' ceremony. Other applicants, according to Yashoda Ade, joined that quarrel. Then Yashoda disclosed that applicant No. 2 Ashok @ Deelip Mohan Rathod assaulted Govind on his head by means of pestle and strangulated him by means of his shirt. Yashoda disclosed that then Ashok assaulted Govind by means of fists and kicks blows. She disclosed that then dead body was put in a sack and applicant No. 1 Mohan and applicant No. 2 Ashok took that dead body to the railway station for its disposal.

6. Though, Yashoda has not attributed role of actual

assault to rest of the applicants except applicant No. 2 Ashok, witness Meerabai Jadhav is stating that applicant No. 1 Mohan and applicant No. 3 Anjana were assaulting Govind Dagdu Jadhav by means of fists and kicks blows as well as stones. Meerabai Jadhav has not ascribed any role to applicant No. 4 Chaya.

7. Shivaji Jadhav, in similar way, has stated that applicant No. 1 Mohan and his wife applicant No. 3 Anjana were assaulting Govind Dagdu Jadhav by means of sticks, kicks and fists blows.

8. Witness Parasram Rathod has only disclosed about the quarrel between the applicants and Govind Jadhav. Rajkumar Chavan has stated before police that he saw applicant No. 1 Mohan, his wife applicant No. 3 Anjana and applicant No. 2 Ashok at Nageshwadi railway station carrying a big bundle and they put that bundle in the wagon of train.

9. The analysis of these statements goes to show that the witnesses are consistent in their version regarding blow of pestle by applicant No. 2 Ashok on the head of deceased Govind Jadhav. At this juncture, perusal of postmortem report goes to show that dead body of Govind was having only one internal injury in the nature of scalp Haematoma of size 11 cm x 5 cm x 1 cm. and Haematoma at chest. There was no external injury on the dead body of Govind Jadhav. *Prima facie*, Haematoma at scalp can be attributed to the blow by pestle attributable to applicant No. 2 Ashok. No external

injury on the dead body *prima facie* makes version of other witnesses attributing role in assault to applicant No. 1 Mohan and applicant No. 3 Anjana doubtful. Apart from this also, the question will be whether remaining accused persons intended to commit murder of their son-in-law Govind Jadhav by using fists and kicks blows or stones. So far as applicant No. 4 Chaya is concerned, eye witnesses are not attributing any role in the crime in question to her.

10. Considering all these aspects, I am of the opinion that further pre-trial detention of applicant No. 1 Mohan, applicant No. 3 Anjana and applicant No. 4 Chaya is not warranted. There is *prima facie* evidence to connect applicant No. 2 Ashok for the offence punishable u/s 302 of the Indian Penal Code. The offence punishable u/s 201 of the Indian Penal Code is bailable in nature. Hence, the following order.

(i) The application is partly allowed.

(ii) Applicant No. 1 Mohan s/o Dhansing Rathod, applicant No. 3 Anjana w/o Mohan Rathod and applicant No. 4 Chaya w/o Govind Jadhav accused in Crime No. 147/2011 registered at Chakur police station, Tq. Chakur, Dist. Latur for the offences punishable u/ss 302, 201 read with 34 of the Indian Penal Code be released on bail on executing P.R. Bond of Rs. 20,000/- [Rupees Twenty Thousand] each and on furnishing surety in the like amount.

(iii) As a condition of this Order, applicant Nos. 1, 3

and 4 shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) Applicant Nos. 1,3 and 4 shall not tamper the evidence of the prosecution.

(v) Applicant Nos. 1,3 and 4 shall co-operate the trial Court in the expeditious disposal of trial against them.

(vi) The application of applicant No. 2 Ashok @ Deelip Mohan Rathod stands rejected.

[A.M.BADAR, J.]