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

CRIMINAL APPLICATION NO.5704 OF 2016

1. Bapurao s/o Gangaram Kendre,
Age: 70 years, Occu: Agri.,
R/o. Deulwadi (Bk), Tq. Udgir,
Dist. Latur
 2. Dayanand s/o Bapurao Kendre,
Age: 36 years, Occu: Agri.,
R/o. Deulwadi (Bk), Tq. Udgir,
Dist. Latur
- ..APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station Wadwana (Bk),
Tq. Udgir, Dist. Latur

..RESPONDENT

Mr V. D. Gunale, Advocate for applicants;
Mr R. V. Dasalkar, Advocate for respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 29th NOVEMBER, 2016

ORAL ORDER :

Heard.

2. The applicants who have been arrested in connection with Crime No. 72 of 2016 registered at Wadhawana Police Station, Tq. Udgir, Dist. Latur

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for the offence punishable under Sections 302, 498-A, 120(B) and 201 of the Indian Penal Code, seek their release on bail.

3. As per the first information report lodged by brother of one Vatsala, the marriage of Vatsala took place in the year 1993 with the son of applicant No.1 and brother of applicant No.2. It is stated that in-laws of Vatsala including the present applicants used to harass Vatsala on account of demand of dowry. It was learnt by informant that on 30th March, 2016, said Vatsala was beaten after which she expired. On that basis, the aforesaid offence came to be registered.

4. It is submitted by the learned Counsel for the applicants that the marriage of Vatsala took place in 1993. There was no question of any presumption under Section 113-A of the Indian Evidence Act, 1872 considering the long passage of time. He submits that in the first information report, there are no specific allegations against

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the present applicants and statements of general nature have been made. Though, some statements indicate administration of poison to Vatsala and giving of electric shock, the cause of death as per the post-mortem report is head injury. It is further submitted that the applicant No.1 being aged 70 years and the applicant No.2 being Karta of the family, they ought to have been released on bail, especially as the chargesheet has been filed on 27th June, 2016.

5. The application is opposed by the learned Additional Public Prosecutor by relying upon the first information report and the statements of the witnesses. He submits that the statement of Rajendra Wadde indicates the presence of the applicants at the house when Vatsala died. It is further submitted that when the earlier report was lodged against the husband of Vatsala – Sangram and hence it is submitted that the application deserves to be rejected.

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6. Perused the first information report as well as the chargesheet. The cause of death as per the post-mortem report is given to be head injury. No other injuries are found on the body of said Vatsala. There is no eye witness in so far as the alleged assault on said Vatsala is concerned. The statement of Rajendra Wadde indicates the presence of applicants at home for sometime, after which it is stated that Vatsala was taken by her husband in another room after which her voice was not heard. Considering the fact that the applicant No.1 is aged 70 years and applicant No. 2 is the brother in law coupled with the fact that the chargesheet has been duly filed, I find that the applicants have made out a case about their release on bail.

7. In the aforesaid, the following order :-

(i) The applicants are directed to be directed to be released on bail in connection with Crime No. 72 of 2016 registered at Wadhawana Police Station, Tq. Udgir, Dist. Latur for the offence punishable

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under Sections 302, 498-A, 120(B) and 201 of the Indian Penal Code, upon furnishing P.R. Bond of Rs. 15,000/- each, with one surety in the like amount.

(ii) They shall attend the Sessions Court, Udgir on 15th December, 2016 and thereafter as per the directions of the learned Sessions Court.

(iii) They shall not take any steps to tamper with the prosecution witnesses.

The observations made in the present application are for considering the bail application.

Criminal Application is allowed and disposed of.

(A.S. CHANDURKAR, J.)