

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

CRIMINAL APPLICATION NO. 5744 OF 2016

1. Nitin s/o. Gumansing Jadhav .. Applicants
Age. 35 years, Occ. Government
Service as Police Constable,
R/o. Police Lines, Police Head Quarter,
Center No.36, room No.9, Jalgaon,
Taluka & Dist. Jalgaon.
2. Gumansing s/o. Vinayak Jadhav
Age. 26 years, Occ. At present Nil,
R/o. Jamner, Taluka – Jamner,
Dist. Jalgaon.

Versus

The State of Maharashtra .. Respondent

Mr.Rajendra S. Deshmukh, Advocate for applicants.
Mr.S.P. Sonpawale, APP for respondent/State.

CORAM : A.M. BADAR,J.

DATED : 26.10.2016

P.C. :-

1. Applicants/accused in Crime No.67 of 2016,
registered with Jilla Peth Police Station, Dist. Jalgaon,
for the offence punishable under section 302 read with
section 34 of the Indian Penal Code, by this application,

are seeking their release on bail, after filing of charge-sheet.

2. Heard learned Counsel for applicants/accused. He argued that both applicants were residing separately and they are not concerned with the crime in question. Co-accused Sachin along with his wife and two daughters was residing in the hospital of Dr. Sarode. Therefore, in submission of learned Counsel for applicants, applicants are not concerned with the offence punishable under section 302 of the Indian Penal Code.

3. Learned A.P.P. opposed the application by arguing that there was demand of Rs.1.50 lakh from deceased Kavita (wife of co-accused Sachin) and for that purpose, both applicants were subjecting her to cruelty. According to learned A.P.P., therefore all accused persons committed murder of Kavita Jadhav and her daughter Ria @ Rinakshi in the night intervening 05.05.2016 and 06.05.2016, by administering some poisonous injection to them.

4. I have considered rival submissions and also perused the charge-sheet. The crime in question came to be registered on the basis of report lodged by Tushar Jaysing Rajput - brother of deceased Kavita Jadhav.

Kavita Sachin Jadhav and Ria @ Rinakshi were found dead in their flat at the hospital of Dr. Rajendra Sarode located at Ring Road, Jalgaon, in the morning hours of 06.05.2016. Arrest form of applicant - Nitin Jadhav shows that he is resident of Police Line, Jalgaon. Arrest form of applicant Gumansing Jadhav also shows same address. Applicant Nitin is brother-in-law, whereas applicant Gumansing is father-in-law of deceased Kavita Jadhav. She was wife of co-accused Sachin Jadhav.

5. According to the prosecution case, motive for the crime in question is demand of Rs. 1.5 lakh from deceased Kavita by accused persons. As deceased Kavita and Ria @ Rinakshi were residing separately from present applicants, let us examine charge-sheet in order to ascertain whether there is material to connect applicants with the offence punishable under section 302 of the Indian Penal Code.

6. Bhavesh Rathod is a technician with Rajas Hospital of Dr. Rajendra Sarode. His statement shows that on 05.05.2016 at about 6 p.m., father-in-law and mother-in-law of deceased Kavita Jadhav had been to hospital for meeting their son Sachin. At about 7.30 p.m. they both left as per version of Bhavesh Rathod. This implies that applicant - Gumansing left the place of

residence of deceased Kavita and her daughter Ria @ Rinakshi, at about 7.30 p.m. of 05.05.2016.

7. Statements of other employees of Rajas Hospital, where both deceased as well as co-accused Sachin Jadhav were residing, show that in the night intervening 05.05.2016 and 06.05.2016, co-accused Sachin was very much present at Rahas Hospital of Dr. Sarode for work. He is resident of second floor of that hospital. Statement of Harish Jadhav - compounder of the said hospital, also shows that after 11.15 p.m. of 05.05.2016 for something co-accused Sachin had gone to place of his residence of hospital and then he returned back. Statement of Eknath Mali also reflects somewhat same situation. Perusal of statements of employees of Rajas Hospital does not, prima facie, show that in the intervening night of 05.05.2016 and 06.05.2016, applicants had came to the hospital for visiting residential place of Sachin, which he used to share with his wife - Kavita Jadhav and his daughter Ria @ Rinakshi, who died in the incident in question.

8. In this view of the matter, considering nature of evidence, available against both applicants, their further pre-trial detention is not warranted. As such, order :-

O R D E R

- i) The application is allowed.
- ii) Applicant/accused - Nitin s/o. Gumansing Jadhav and Gumansing s/o. Vinayak Jadhav, in Crime No.67 of 2016, registered with Jilla Peth Police Station, Dist. Jalgaon, for the offence punishable under section 302 read with section 34 of the Indian Penal Code, be released on bail on executing P.R.Bond of Rs. 25,000/- [Rupees Twenty Five Thousand] and on furnishing surety in the like amount, by each of them.
- iii) As a condition of this Order, applicants 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) Applicants shall not tamper the evidence of the prosecution.
- v) Applicants to co-operate the trial Court in the expeditious disposal of trial against them.

[A.M. BADAR, J.]