

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

CRIMINAL APPLICATION NO. 5927 OF 2016

1. Rajendra s/o. Sonyabapu Ingale, .. Applicants
Age. 45 years, Occ. Agri.,
2. Eknath s/o. Sonyabapu Ingale,
Age. 38 years, Occ. Agri.,
3. Indubai Eknath Ingale,
Age. 45 years, Occ. Household,
4. Anjanabai Rajendra Ingale,
Age. 38 years, Occ. Household,
5. Nilesh s/o. Rajendra Ingale,
Age. 21 years, Occ. Education,
6. Dipak s/o. Eknath Ingale,
Age. 35 years, Occ. Service,
7. Nitin s/o. Eknath Ingale,
Age. 22 years, Occ. Agri.,
All R/o. Jorve, Tq. Sangamner,
Dist. Ahmednagar.

Versus

The State of Maharashtra .. Respondent

Mr. Rahul A. Tambe, Advocate for applicants.
Mr. S.P. Sonpawale, APP for respondent/State.

**CORAM : A.M. BADAR, J.
DATED : 25.10.2016**

P.C. :-

1. Seven applicants, who are accused in Crime No. I-156 of 2016 registered with Sangamner Taluka Police Station, Dist. Ahmednagar, for offences punishable under section 302, 143, 147, 149, 323, 504 and 506 of the Indian Penal Code and under sections 37 (1) (3) as well as section 135 of the Maharashtra Police Act, by this application, are seeking their release on bail.

2. Heard learned Counsel appearing for applicants/accused. By taking me through the F.I.R., learned Counsel argued that accepting the F.I.R. as it is, no offence punishable under section 302 of the Indian Penal Code is made out and as necessary investigation is over, further pre-trial detention of applicants is not warranted.

3. Learned A.P.P. opposed the application by contending that applicants have committed murder of Lilabai Baban Ingale by forming unlawful assembly having common object. Learned A.P.P. further argued that there are several eye witnesses to the incident, such as, Subhash, Baban, Vijay, Archana, Dattatray and therefore, no bail can be granted to applicants.

4. I have carefully considered the rival submissions and also perused papers of investigation.

The crime in question is registered on the basis of report lodged by Vaijayanta Sandip Ingale. Lilabai Baban Ingale died homicidal death in the incident reported by Vaijayanta Ingale. The post-mortem report shows that the dead body of Lilabai was having four ante-mortem injuries and she died because of head injury. Injuries on the dead body were in the nature of contusions. Head injury suffered by Lilabai is stated to be contusion of size 4 x 3 cms. over scalp. Other contusions were on limbs. The F.I.R. as well as statements of witnesses go to show that accused persons and the prosecuting party are near relatives having their fields adjoining to each other. There was *interse* dispute between them over the boundary of the field. On 04.10.2016, applicant No.1-Rajendra questioned Subhash Baban Ingale - witness of the prosecuting party as to why Subhash had damaged common bund of the field and why grass is sowed on the bund. There upon according to the prosecution case, applicants Rajendra, Eknath, Indubai and Anjanabai started abusing Subhash Ingale and assaulting him by means of fist and kick blows. Then applicant Nilesh, Dipak and Nitin came there and started threatening and pulling informant Vaijayanta Ingale. In that melee applicant Rajendra Ingale and applicant Anjanabai Ingale gave a push to Lilabai Baban Ingale (since deceased) as Lilabai came for pacifying quarreling parties. Because of push given by

applicants Rajendra and Anjanabai, Lilabai suffered a fall and consequently died.

5. From perusal of the F.I.R. as well as statements of witnesses, prima facie, it is not seen that unlawful assembly was having common object of killing Lilabai. Act of applicant Rajendra and Anjanabai does not appear to be pre-mediated. Prima facie, there seems to be no intention or knowledge with applicants to kill Lilabai. Therefore, applicability of section 302 of the Indian Penal Code is in serious doubt in the case in hand, because averements are giving push to deceased causing her fall and consequent death.

6. In this view of the matter and as substantial part of the investigation of the crime is over, considering nature of evidence against applicants, their further pre-trial detention is not warranted and as such the order :-

O R D E R

i) The application is allowed.

ii) Applicants/accused — Rajendra s/o. Sonyabapu Ingale, Eknath s/o. Sonyabapu Ingale, Indubai Eknath Ingale, Anjanabai Rajendra Ingale, Nilesh s/o. Rajendra Ingale, Dipak s/o. Ekanth Ingale and Nitin s/o. Ekanth Ingale in Crime No. I-156 of 2016 registered with

Sangamner Taluka Police Station, Dist. Ahmednagar, for offences punishable under section 302, 143, 147, 149, 323, 504 and 506 of the Indian Penal Code and under sections 37 (1) (3) as well as section 135 of the Maharashtra Police Act, be released on bail on executing P.R.Bond of Rs. 15,000/- [Rupees Fifteen 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 and not to repeat commission of any offence in future particularly in relation to prosecuting party.

[A.M. BADAR, J.]