

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

CRIMINAL APPLICATION NO. 6001 OF 2015

1. Manoj S/o Badrinath Wagh,
Age : 35 years, Occu. Agril.,
R/o. Shekta, Tq. & Dist. Aurangabad.

2. Priti W/o. Kanhayalal Sonavane,
Age : 40 years, Occu. Household,
R/o. Shree Krishna Housing Society,
Aurangabad.

... Applicants

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr S. G. Ladda & Mr S. S. Varma, Advocate for applicants
Mr S. Y. Mahajan, APP for respondent/State.
Mr Satej S. Jadhav, Advocate to assist PP.
.....

CORAM : **N. W. SAMBRE, J.**

DATE : **8TH JANUARY, 2016.**

PER COURT:

. By this application under Section 438 of the Code of Criminal Procedure, the applicants seek pre-arrest bail in Crime No. I-67 of 2015 registered at Mukundwadi Police Station, Dist. Aurangabad, for the offences punishable under Sections 307, 143, 147, 148, 323, 504 and 506 of the Indian Penal Code.

2. Pursuant to the incident dt. 01.01.2015 for which according to FIR complaint was registered by the complainant on 1.02.2015. Initially offences under Sections 143, 147, 148, 323 and 506 of the Indian Penal Code were registered and subsequently offence under Section 307 of IPC was added. The applicants herein were already released on bail by the Judicial Magistrate (Railways) F.C., Aurangabad on 4th February, 2015 as all the offences except under Section 307 of IPC, were bailable.

3. It is the case of the prosecution and the learned counsel for the complainant that, it is upon receipt of the Forensic Science Laboratory report stains of kerosene on the clothes of the complainant were noticed and therefore offence u/s 307 of IPC is added.

4. In this background, learned counsel for the applicant Shri. S. G. Ladda would urge that though the names of the applicants are mentioned in the FIR, no specific role is attributed to them except certain allegations. Apart from above, according to learned counsel for applicants though it is claimed by the complainant that on 1/1/2015 the complaint was given to the police station, it is clearly mentioned in the FIR that the complaint is received on 1/2/2015 for the alleged incident dt. 1/1/2015.

5. The learned Counsel Shri. Laddha would urge that the false implication of the applicants in Crime in question cannot be ruled out.

6. Learned APP while opposing the bail application would urge that at the behest of the complainant there are in all four offences registered against the main accused Thagan Deorao Bhagwat Patil and the present applicants are named as accused in Crime Nos. 67 of 2015 and 71 of 2015. Mr Rahate, learned counsel would urge that the charge-sheet in the matter is already filed and there are two eye-witnesses to the incident.

7. Shri. Jadhav, learned Counsel through learned APP submits that serious offence has been committed by the present applicants as is apparent from the contents of the FIR and their custodial interrogation is very much necessary particularly in the background of offence punishable under Section 307 of the IPC. According to him, as the charge-sheet in the matter is already filed, the applicants should approach the learned Sessions Court for grant of regular bail instead of pursuing the present matter.

8. With the assistance of the respective counsel, I have perused the contents of the FIR and other papers as are brought on record

including the affidavit filed by the Commissioner of Police in the earlier proceedings i.e. Criminal Writ Petition No. 863 of 2015. It is to be noted here that upon perusal of the FIR and other investigation papers it depicts that though the applicants are named in the crime in question, no specific role is attributed to them. Statement of the alleged eye-witnesses are voluntarily given by them to the Commissioner of Police which bears date of receipt as 23rd March, 2015 by the Police.

9. In view of the above and particularly having regard to the fact that no specific role is attributed to the present applicants in the crime in question, in my opinion, it will be appropriate to order release of the applicants on bail. Hence, I proceed to pass the following order.

ORDER

- (i) In the event of arrest of the applicants Manoj S/o Badrinath Wagh and Priti W/o. Kanhayalal Sonavane in Crime No. I-67 of 2015 registered at Mukundwadi Police Station, Dist. Aurangabad, for offence punishable under Sections 307, 143, 147, 148, 323, 504 and 506 of the Indian Penal Code, they be released on bail on their furnishing PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each, with one surety in the like amount.

- (ii) They shall attend the concerned Police Station everyday from 18th to 20th January, 2016 between 10.00 a.m. and 12.00 noon and thereafter as and when called by the Investigating Officer.
- (iii) They shall not tamper with the prosecution evidence.

Criminal Application stands allowed in above terms.

[N. W. SAMBRE]
JUDGE

sgp