

(1)

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

CRIMINAL APPLICATION NO.6284 OF 2016

1. Sushila w/o Vilas Devkar,
Age: 40 years, Occ: Household,
R/o. Avchitnagar, Ghulewadi,
Tq. Sangamner, Dist.Ahmednagar.
2. Akash s/o Vilas Devkar,
Age: 19 years, Occ: Education,
R/o. Avchitnagar, Ghulewadi,
Tq. Sangamner, Dist.Ahmednagar. ..APPLICANTS

VERSUS

The State of Maharashtra
Through the Police Inspector;
City Police Station, Sangamner,
Tq. Sangamner, Dist. Ahmednagar. ..RESPONDENT

Mr K.N. Shermale, Advocate for applicants;
Mr V.M. Kagne, Addl. Public Prosecutor for
respondent

CORAM : A.S. CHANDURKAR, J.

DATE : 15th DECEMBER, 2016

ORAL ORDER :

At the outset, the learned Counsel for the applicants, on instructions, does not prosecute the application insofar as the applicant No.1 Sushila w/o Vilas Devkar is concerned. Hence, present application is considered insofar as the applicant

(2)

No. 2 Akash s/o Vilas Devkar alone is concerned.

2. As per the first information report dated 25th September, 2016, the informant Rajendra has stated that he was having affairs with one Mina Sonawane for about a year. Subsequently, when his wife got knowledge about the same, he abandoned the relations with Mina, however, the said lady continued to call the informant. On 24th September, 2016 at about 8-30 p.m. the said Mina along with applicant No.1 Sushila had come to the house of informant and started assaulting the informant with fists and kicks. The wife of the informant also assaulted. At that point of time, the applicant No.2 and his brother and friends also came there and started assaulting the informant. Mina Sonawane held the hands of the informant's brother - Ramakant and the applicant No.1 Sushila is stated to have hit Ramakant on the head with a pressure cooker resulting in death of said Ramakant due to injuries. The applicant No.2 came to be arrested on 26th September, 2016.

(3)

3. It is submitted by the learned Counsel for the applicant that except for presence of applicant No.2 and the allegations that he had given fist blows along with his friends, no overt act is attributed to him. It is submitted that even if the first information report is taken as it is, the alleged offence cannot be attributed to the applicant No. 2. It is, therefore, submitted that the applicant No.2 deserves to be enlarged on bail.

4. The application is opposed by the learned Additional Public Prosecutor by relying upon the police papers. He has relied upon the statements of the witnesses to indicate the presence of applicant No.2 at the spot. As per version of the eye witnesses, the applicant No.2 along his brother and friends were present at the spot, but the actual overt act is not attributed to him.

5. Considering the fact that as per the informant and eye witnesses, the overt act of hitting Ramakant on his head is attributed to applicant No.1 Sushila with Mina Sonawane and the

(4)

allegations against the applicant No. 2 Akash are general in nature, I am inclined to allow the application insofar as the applicant No.2 Akash is concerned.

6. In view of aforesaid, the following order is passed : -

(i) The applicant No.2 - Akash s/o Vilas Devkar is directed to be released on bail in connection with Crime No. 250 of 2016 registered with Sangamner City Police Station, Taluka Sangamner, District Ahmednagar, for the offences punishable under Sections 302, 452, 143, 147, 323 and 504 of the Indian Penal Code, on furnishing P.R. bond of Rs.15,000/-, with one surety in the like amount.

(ii) The applicant No.2 Akash s/o Vilas Devkar shall attend the concerned police station as and when directed by the Investigating Officer.

(5)

(iii) The applicant No.2 Akash s/o Vilas Devkar shall not enter the limits of Sangamner City Police Station, Taluka Sangamner, District Ahmednagar till filing of the charge sheet.

(iv) The applicant No.2 Akash s/o Vilas Devkar shall not take any steps to tamper with the prosecution witnesses.

7. The observations made in this order are only for the purposes of deciding the present application.

8. Criminal Application is allowed insofar as applicant No.2 Akash s/o Vilas Devkar is concerned and the application insofar as applicant No.1 Sushila w/o Vilas Devkar is concerned is permitted to be withdrawn.

(A.S. CHANDURKAR, J.)

Tupe