

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6302 OF 2016

1] Laxman Bhausahab Pawar,
Age : 26 years, Occu.: Agri.,

2] Ramesh Annasaheb Wadekar,
Age : 22 years, Occu.: Agri.,

Both R/o Kharshinde,
Tq. Sangamner, Dist. Ahmednagar .. Applicants

Vs.

The State of Maharashtra .. Respondent

Mr. R.K. Temkar, Advocate for the applicants
Mr. A.D. Namde, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.
DATE : 20/12/2016

ORAL ORDER :

Heard.

2. The applicants, who have been arrested on 31/7/2016 in connection with Crime no.I-114 of 2016 registered with Sangamner Taluka Police Station, Tq. Sangamner, Dist. Ahmednagar for the offences punishable under Sections 302, 201 of the Indian Penal Code, seek their release on bail.

3. As per the FIR lodged by applicant no.1 herein, on 17/7/2016 when he alongwith one Anil Pawar were proceeding on motorcycle towards Musalgaon, they were accosted by three persons. They were assaulted and were robbed. It was stated that in the process, said Anil Pawar had a fall resulting in various injuries. Applicant no.1 also received some injuries. On that basis, report came to be lodged on 20/7/2016. During the course of investigation, on the basis of statement of the brother of the deceased, in which he has stated that Anil Pawar has informed his father during treatment that present applicants had assaulted him and they were therefore responsible, the present applicants came to be arrested.

4. It is submitted by learned counsel for the applicants that the case of the prosecution is based on circumstantial evidence. There is no eye witness nor is statement of Anil Pawar recorded though he was under treatment from 18/7/2016 till 29/7/2016. It is pointed out that in the statement recorded on 20/7/2016, the brother of the deceased had stated that the deceased was

not speaking and he was therefore shifted to another hospital. However, in the subsequent statement recorded on 31/7/2016, present applicants have been implicated. There is no recovery effected and it is submitted that as chargesheet has now been filed, the applicants deserve to be released on bail.

5. Application is opposed by learned Additional Public Prosecutor. It is submitted on the basis of statements which are part of the chargesheet that as per the disclosure of Anil Pawar, present applicants were responsible for his death. It is submitted that considering the gravity of the offence, the applicants are not entitled for being released on bail.

6. Perused the chargesheet. The same indicates that the initial report was lodged by applicant no.1 on 20/7/2016 in which it is stated that three persons have robbed the applicant no.1 and Anil Pawar. In that process, Anil Pawar had a fall resulting in various injuries. Statement of Appasaheb Pawar indicates that his brother Anil Pawar was not speaking when he was undergoing treatment. In the subsequent statement

recorded on 31/7/2016, he has stated that the fact regarding involvement of applicants was narrated by Anil Pawar to his father. This fact however is missing from his earlier statement. The injury certificates issued by two hospitals refer to patient's history as '*assault by thieves*'. Considering the fact that there is no eye witness and the entire case is based on circumstantial evidence, I find that a case has been made out by the applicants for their release on bail. Chargesheet has been filed and investigation is also complete.

7. In view of aforesaid, the following order:-

ORDER

I] The applicants, who have been arrested in connection with Crime no.I-114 of 2016 registered with Sangamner Taluka Police Station, Tq. Sangamner, Dist. Ahmednagar for the offences punishable under Sections 302, 201 of the Indian Penal Code, are directed to be released on bail, upon each of them furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

II] They shall attend the Court of Sessions, Sangamner, District – Ahmednagar on 09/01/2017 and thereafter as per the directions of the learned Sessions Judge.

III] They shall not take steps to influence the prosecution witnesses.

8. By clarifying that the observations made in this order are only for deciding the bail Application, the same is accordingly allowed and disposed of.

Sd/-

[A.S. CHANDURKAR]
JUDGE

arp/