

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6442 OF 2016

- 1] Ashok S/o Shankar Pathave
Age – 23 years, Occu. – Private Service
- 2] Balasaheb S/o Shankar Pathave
Age – 20 years, Occu.: Farmer,

Both R/o Kalas (Bk.) Tq. Akole,
Dist. Ahmednagar .. Applicants

Vs.

The State of Maharashtra
Through Police Inspector
Police Station, Akole
Tq. Sangamner, Dist. Ahmednagar .. Respondent

Mr. M.V. Salunke, Advocate with Mr. V.D. Salunke, Advocate
for the applicants
Mr. S.N. Morampalle, APP for the respondent/State

CORAM : A.S. CHANDURKAR, J.
DATE : 16/12/2016

ORAL ORDER :

Heard.

2. The applicants, who have been arrested in connection with Crime no.I-94 of 2016 registered with Akole Police Station, Tq. Sangamner, Dist. Ahmednagar for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, seek their release on bail.

3. At the outset, learned counsel for the applicants, on instructions, does not desire to prosecute the application so far as applicant no.1 – Ashok S/o Shankar Pathave is concerned. Hence, application is considered with regard to prayer made by the applicant no.2 – Balasaheb S/o Shankar Pathave.

4. As per the FIR, the husband of the informant was reported to be missing from his house on 3/6/2016. Missing report to that effect was given on 10/6/2016. Thereafter, while investigating, it was revealed that said husband of the informant had been done to death by the accused persons which included applicant no.2 and his father. Applicant no.2 was accordingly arrested on 22/7/2016.

5. It is submitted by learned counsel for the applicant that insofar as the offence under Section 302 of the Penal Code is concerned, the same is attributed to accused no.1 – Shankar. It is stated that said Shankar had assaulted the deceased on his head resulting in his death. The allegations against applicant no.2

is with regard to offence under Section 201 of the Indian Penal Code. There is no recovery from the present applicant and the spot in question was also not shown by the present applicant. It is submitted that as chargesheet is now filed, applicant no.2 - Balasaheb S/o Shankar Pathave deserves to be released on bail.

6. Application is opposed by learned Additional Public Prosecutor by relying upon the police papers. It is submitted that applicant no.2 being son of the main accused, he had assisted him in disposing off the dead body. The spot in question was discovered by accused no.2 - Ashok (applicant no.1 herein) and there are certain recoveries at his instance. As the applicant no.2 had assisted his father and brother, he does not deserve to be released on bail.

7. I have perused the documents placed on record alongwith the chargesheet. The offence insofar as Section 302 of the Penal Code is concerned, is attributed to accused no.1 - Shankar. The material indicates that the applicant no. 2 and his brother Ashok had helped accused no.1 in disposing off the dead body.

The spot where the dead body was buried was discovered by Ashok and at his instance, the spade and other equipment for digging the pit were also recovered. There is no recovery at the instance of the applicant no.2. In this background, considering the fact that chargesheet has been filed after completion of the investigation, further detention of the applicant no.2 - Balasaheb S/o Shankar Pathave is not warranted.

8. Hence, the following order :-

ORDER

I) The applicant no.2 - Balasaheb S/o Shankar Pathave, who has been arrested in connection with Crime no.I-94 of 2016 registered with Akole Police Station, Tq. Sangamner, Dist. Ahmednagar for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code, is directed to be released on bail, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

II) Applicant no.2 - Balasaheb S/o Shankar Pathave shall attend the Court of Sessions, Sangamner, Dist.

Ahmednagar on 10th January, 2017 and abide by the directions of the Sessions Court.

III) Applicant no.2 shall not take any steps to influence the prosecution witnesses.

9. Application insofar as applicant no.1 - Ashok S/o Shankar Pathave is concerned, is permitted to be withdrawn with liberty to apply afresh, if the trial does not commence within a period of four (4) months from today.

10. Application insofar as applicant no.2 is concerned stands allowed.

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

[A.S. CHANDURKAR]
JUDGE

arp/