

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

CRIMINAL APPLICATION NO. 6892 OF 2015

Waman s/o Narayan Khade,
Age: 20 years, Occu: Education,
R/o Hatola, Tq. Ashti,
Dist. Beed

...Applicant

versus

The State of Maharashtra,
Through Kotwali Police Station,
Ahmednagar, Tq. & Dist. Ahmednagar

...Respondent

**WITH
CRIMINAL APPLICATION NO. 6893 OF 2015**

Ishwar S/o Arjun Kutarwade,
Age: 19 years, Occu: Education,
R/o Hatola, Tq. Ashti,
Dist. Beed

...Applicant

versus

The State of Maharashtra,
Through Kotwali Police Station,
Ahmednagar, Tq. & Dist. Ahmednagar

...Respondent

.....
Mr. S.S. Jadhavar, Advocate for applicants
Mr. S.Y. Mahajan, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 4th JANUARY, 2016

ORAL ORDER :

In Criminal Application Nos. 6892 of 2015 and 6893 of 2015, this Court, on 23/12/2015, has ordered notice to learned A.P.P. Though the order remained to be carried out in Criminal

Application No. 6893 of 2015, learned A.P.P. agrees that pursuant to the last order passed by this Court, already intimated to investigating agency about filing of these two applications, as such applications are heard.

2. The applicants herein are seeking regular bail in Crime No. I-121/2015 registered on 18/05/2015 for the offence punishable under Sections 302, 394, 201 read with Section 34 of the Indian Penal Code.

3. Mr. Jadhavar, learned Counsel for the applicants would urge that the investigation in the matter is already complete and charge sheet is filed. He would then urge that further detention of the applicants is not required, particularly in the background of order passed by this Court on 09/12/2015 in Criminal Application No. 5610 of 2015 releasing the co-accused Ashok on regular bail. According to him, since there is no direct evidence available as against applicants and the case against the applicants is based on circumstantial evidence, the applicants are entitled for regular bail.

4. Learned A.P.P. while opposing the applications would urge that F.I.R. depicts that the specific role is attributed to

applicant Waman, who has hit the deceased from behind with a stone. He has relied upon the contents of post mortem report so as to substantiate his contention. He would then urge that co-accused in the matter has already stated about involvement of the applicants in the crime in question.

5. Having bestowed my thought to the submissions made, it is no doubt true that, in F.I.R. there is specific role attributed to Waman i.e. stoning to death of deceased by Waman, however, contents of F.I.R. cannot be read to that extent in isolation as the entire investigation in the matter depicts that the prosecution case is based on circumstantial evidence.

6. Mr. Jadhavar, learned Counsel for the applicants, in my opinion, is right in pointing out that one of the co-accused Ashok is already released on bail on 09/12/2015 in Criminal Application No. 5610 of 2015 by this Court.

7. In this background, in my opinion, it will be appropriate to allow the applications on same terms upon which co-accused Ashok was released on bail by this Court in Criminal Application No. 5610/2015 on 09/12/2015. Hence following order.

a) Applicant Waman Narayan Khade in Criminal Application No. 6892/2015 and applicant Ishwar Arjun Kutarwade be released on bail in Crime No. I-121 of 2015 registered at Kotwali Police Station, District Ahmednagar for the offences punishable under Sections 302, 394 and 201 read with Section 34 of Indian Penal Code, upon furnishing P. R. and S. B. of Rs. 25,000/- (Rs. Twenty Five Thousand only) by each of them.

b) Applicants shall not tamper with the prosecution evidence and shall make themselves available as and when required.

8. Criminal Applications stand allowed in above terms.

[N.W. SAMBRE, J.]