

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRI. BAIL APPLICATION NO. 1540 OF 2016**

Mr. Yogesh Ambadas Gangurde & 2 Others. ... Applicants.

V/s.

The State of Maharashtra ... Respondent.

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Mr. Kuldeep S. Patil, Advocate, for the Applicants.

Mr. Deepak Thakre, A.P.P. for the Respondent – State.

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**CORAM : A. M. BADAR, J.**

**DATE : 09<sup>th</sup> AUGUST, 2016**

**P.C. :**

1 Applicants/accused in Crime No. I-44 of 2016 registered with Chandwad Police Station, Dist. Nashik for the offences punishable under section 302, 120-B, 452 of the Indian Penal Code at the instance of informant-Vatsalabai Nikam, by this application under section 439 of the Criminal Procedure Code, are praying for releasing them on bail.

2 Heard the learned counsel appearing for Applicants / accused. He argued that perusal of the chargesheet would show that there is no iota of evidence against the present applicants though the offence alleged is serious.

3            Learned APP opposed the application by contending that bloodstained clothes of the present applicants came to be seized by the police at the time of their arrest, as they were arrested soon after the incident in question.

4            Perused the chargesheet. According to informant mother-Vatsalabai, her son Ramdas (since deceased) was mentally ill. He was residing in the house situated in the field. Because of the assault by Ramdas just prior to the incident in question, she (informant) had left the house of Ramdas and started residing with her elder son-Nagesh. The informant further reported that on 12.03.2016 she came to know that her son Ramdas Nikam was lying dead in his house.

5            According to the prosecution case, co-accused Nagesh Nikam, elder brother of deceased-Ramdas, had conspired with the present applicants for committing murder of his mentally ill brother-Ramdas. Post-mortem report shows that Ramdas Nikam died as homicidal death. The case is based on the circumstantial evidence. To point out conspiracy, reliance is placed on the statement of Balasaheb Kachuru Gangurde, a Grocery Shop Owner of the village. However, his statement shows that co-accused Nagesh and applicant-Yogesh as well as co-accused -Manny were usually meeting each other at his grocery shop. Statement of Shivaji Nakam shows that in the night intervening of 11.03.2016 and 12.03.2016, he heard

sound of motorcycle going towards the farm house where deceased- Ramdas Nikam was residing.

6           Witness Santosh Alinje, the owner of Sahara Hotel states that on 11.03.2016 the present applicants had consumed liquor and took dinner at his road side eatery. According to the prosecution on 13.03.2016 clothes of the present applicants were seized and those clothes were having reddish stains. The statement of Dr.Vikram Shedge shows that in the night intervening of 11.03.2016 and 12.03.2016 all applicants had suffered a fall from the motorcycle and that he gave treatment to them. Dr. Vikram Shedge further reported that he found that applicants had consumed liquor. Their injury certificates are also collected by the investigators. This evidence prima facie explains reddish stains on the clothes of applicants.

7           Next evidence available against present applicants is recovery of iron bars and iron pipes at their instance on 15.03.2016. According to the prosecution case, co-accused- Nagesh had purchased these articles from a scrap dealer and provided them to applicants. Statement of Salim Haji Mirza, a scrap dealer, shows that on 14.03.2016 the police showed him two iron rods which were reportedly given by him to co-accused- Nagesh Nikam. In other words, iron rods were already available with the police on 14.03.2016 but still those

were shown to be recovered at the instance of the present applicants on 15.03.2016.

8 Overall review of the material found in the chargesheet shows that many links to the chain of the circumstances are missing and as such considering the nature of the evidence against present applicants, their pre-trial detention is not warranted. Hence, the order :

### **ORDER**

- i. The bail application is allowed.
- ii. Applicants/accused in Crime No. I-44 of 2016 registered with Chandwad Police Station, Dist. Nashik for the offences punishable under section 302, 120-B, 452 of the Indian Penal Code at the instance of informant-Vatsalabai Runza Nikam, be released on bail on executing PR Bond in the sum of Rs. 20,000/- each and on furnishing solvent surety in the like amount by each of them.
- iii. As a condition of this order, Applicants should co-operate with the trial court in expeditious disposal of the trial pending against them.

- iv. In addition, Applicants/accused are directed that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicants shall not tamper with the prosecution evidence in any manner.
- v. Applicants should not commit any offence of similar nature in future.
- vi. The bail application is disposed of accordingly.

(A. M. BADAR, J.)

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