

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1617 OF 2016

Vasant Rajaram Gholave

.....Applicant

V/s.

The State of Maharashtra

....Respondent

AND
CRIMINAL BAIL APPLICATION NO. 1618 OF 2016

1. Sunita Rajendra Nagargoje
2. Sunita Dashrath Nagargoje
3. Nirmala Vijay Late
4. Usha Samadhan Gholave

....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. S. V. Kotwal i/b Mr. Aashish S. Sawant Advocate for Applicants
Mr. Vinod Chate APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 25, 2016.

PC :

- 1) Heard. These are applications under Section 439 of the Code of Criminal Procedure, 1973. Applicants herein are arrested on 02/04/2016 in

crime no. 86 of 2016 registered at Vairag Police Station for offences punishable under sections 302, 307, 143, 147, 148, 149, 504 & 506 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that on 01/04/2016, Nitin Late lodged a report at the police station alleging therein that on 01/04/2016, his brother Prakash had been to agricultural land and was conducting agricultural operations. That after 10 minutes, the first informant had been to the agricultural land. His parents were giving water to the cattle. At that time, he had seen Vijay Late in his agricultural land which is adjacent to the agricultural land of the first informant. It is alleged that Vijay had informed someone on the cellphone that Prakash is present in the village and is conducting agricultural operations, his parents are also present. Within no time, all the members of Late family and present Applicant had come to the agricultural land and had mounted assault upon Prakash, alleging therein that he was conducting the agricultural operations in their land. It is specifically alleged in the F.I.R. that Samadhan & Rajendra had assaulted Prakash on his tibia with an axe and had practically mutilated his legs. That Sangram had also assaulted Prakash with an iron rod on his head and arms. That

Ramkrishna had also assaulted Prakash on his forearm.

3) As far as the present Applicants are concerned, it is alleged in the F.I.R. that when the complainant and others had gone near Prakash to see his condition, at that time, all the present Applicants had abused, threatened and assaulted them with fist and kick blows. Prakash was admitted in the hospital as he has sustained grievous injuries. It appears from the record that Prakash had died an instantaneous death.

4) Post-mortem was conducted upon the dead body of Prakash on 01/04/2016 between 8.00 p.m. to 9.15 p.m. Coloumn no. 17 of the post-mortem notes would indicate that Prakash had sustained as many as 21 injuries. That there was fracture to the left femur and mid femur. He had also sustained a stab wound on his lower left arm and right and left leg, and contusions and abrasions. Applicants in Criminal Application No. 1618 of 2016 are women and are in custody since 02/04/2016 and the investigation is completed. Hence, they would be entitled to bail by virtue of proviso to section 437 of the Code of Criminal Procedure, 1973. As far as Applicants in Criminal Application No. 1617 of 2016 is concerned, the role assigned to the present Applicant is para materia the same as is alleged against the Applicants

in Criminal Application No. 1618 of 2016. Applicant in Criminal Application No. 1617 of 2016 is also 74 years old and therefore, would be entitled to the relief of bail as contemplated under the proviso to section 437 of the Code of Criminal Procedure, 1973. The co-accused shall not claim parity with the present Applicants before any court.

5) However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Applications are allowed.
- (ii) Applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 15,000/- each with one or two sureties in the like amount.
- (iii) Applicants shall report to the concerned police station as and when called.
- (iv) Applications stand disposed of.

(SMT. SADHANA S. JADHAV, J.)