

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.841 OF 2016
(Magan Jagan Sanise and another vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri S.V. Sirpurkar, Advocate for applicants.
Shri A.M. Deshpande, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : DECEMBER 05, 2016

Heard learned Counsel for both sides.

Applicant no.1 father and applicant no.2
brother-in-law of deceased Radha have sought bail in
Crime No.79/2016 registered for the offences punishable
under Sections 302 and 201 read with Section 34 of
Indian Penal Code and Sections 4 and 25 of Arms Act by
Police Station, Barshitakli, District Akola.

Shri Sirpurkar, learned Counsel for
applicants, submits that on going through the contents of
report, except for alleged theory of last seen together
and circumstance of house of applicants having been
found locked from 25/4/2016 onwards till dead body of
Radha was recovered from nalla on 29/4/2016, there is
nothing to establish involvement of applicants.

Shri Deshpande, learned Additional Public
Prosecutor for respondent, submits that deceased Radha
was divorcee since five years and was residing with
applicants and as applicants were suspecting her

character, they along with their wives, committed her murder.

According to report lodged by Manohar Rathod, Sarpanch of village Brashitakli, on 24/4/2016, one Mainabai Pandit Shinde is alleged to have informed him that applicants along with their wives and deceased Radha had gone towards temple side in jungle for collecting fire wood. Out of them, applicant Magan was carrying koyata like weapon.

In view of contents of report as aforesaid, learned Additional Public Prosecutor has contended that since Radha was not seen and her dead body was found on 29/4/2016 in a nalla, it is only the applicants, who having doubted her character, committed her murder.

Admittedly, no statement of Mainabai Pandit Shinde was recorded during the course of investigation. As such, above contents of report by Manohar Rathod, prima facie do not appear to have any corroborative evidence to that effect. Moreover, case of prosecution based on the theory of last seen together also does not appear to be convincing as there is a long time gap between applicants having been seen in the company of deceased and day on which her dead body was located on 29/4/2016.

Having considered limited evidence available against applicants as aforesaid and since other co-accused in the present crime, namely, Sharda and Shashikala, are granted bail, case of applicants can be said to be at par with co-accused. In the circumstances, application is liable to be allowed as per order below :

The applicants shall be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- each with one surety in like amount. They shall mark their presence with Police Station, Barshitakli once in three months pending trial and shall not tamper with the witnesses.

The criminal application is accordingly allowed.

JUDGE

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