

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

Criminal Application No. 01395 of 2017

District : Parbhani

1. Mahadu s/o. Ramkishan Chambhare,
Age : 35 years,
Occupation : Agriculture,
R/o. Kothala, Taluka Sonpeth,
District Parbhani.
 2. Bibhishan s/o. Ramkishan Chambhare,
Age : 38 years,
Occupation : Agriculture,
R/o. Kothala, Taluka Sonpeth,
District Parbhani.
- .. Applicants.

versus

The State of Maharashtra,
Through Police Station Officer,
Sonpeth Police Station,
District Parbhani.

.. Non-applicant.

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Mr. S.S. Bora, Advocate, for the applicants.

*Mr. S.W. Munde, Addl. Public Prosecutor, for
the non-applicant.*

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CORAM : T.V. NALAWADE, J.

DATE : 06TH APRIL 2017

ORAL ORDER :

By the present application, the applicants -
accused are seeking their release on bail in
connection with Crime No. 196/2016 registered with
Sonpeth Police Station, District Parbhani, for

offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

02. Heard both the sides. Perused the papers of investigation which are made available by the learned Addl. Public Prosecutor for perusal of this Court.

03. The crime is registered on the basis of report given by Dwarkabai, widow of deceased Bhagwat Chambhare. The material collected shows that some land of the family of the deceased was with Ramkishan, father of applicant nos.01 and 02. As Ramkishan was not returning the land, litigation was filed by deceased Bhagwat against Ramkishan and due to that, there was dispute. The land of the present applicants is situated adjacent to other land of the deceased.

04. The incident in question took place on 25.10.2016 after 04.00 p.m. The deceased was sleeping under a tree in his land and the complainant was present in the vicinity to attend the cattle. When she heard the shouting of the deceased, she rushed towards the spot and she noticed that Kavita and Kausabai were holding the deceased and present applicants were giving blows of axe on the person of the deceased. Before she reached to the spot, blows were given on the head and other parts of the deceased. Due to shouting of the complainant, some persons like Damodar Kale rushed towards the spot. Present applicants and aforesaid two ladies ran away.

A vehicle was called to shift the deceased to the Government hospital at Sonpeth. After reaching the hospital, the Doctor examined him and declared to be dead. Report was given at the Police Station on the same day at about 23.16 hours and crime was registered under Section 302 read with Section 34 of the Indian Penal Code against all four persons.

05. The material collected shows that there is direct evidence against the applicants. The post mortem report shows that as many as 11 injuries were found on the dead body and most of the injuries were chop wounds having considerable length and at least three injuries were found on the head, one injury was found on neck and one injury on right scapula. There were other multiple contusions and lacerated wounds over the dead body and they were mostly on hands showing that the deceased had raised hands to ward off the blows but he could not succeed and ultimately so many blows hit his head and neck. The death took place due to aforesaid injuries.

06. Papers of investigation show that during investigation, on the basis of statements under Section 27 of the Evidence Act, two weapons came to be recovered from the house of applicant nos.01 and 02. Their clothes are also recovered and they are sent to Chemical Analyzer for analysis. This material is more than sufficient to indicate prima facie involvement of the present applicants in commission of the crime in question. It appears that

two ladies involved in the crime are granted bail by the Sessions Court. But blows were given by the applicants and their case is different from those two ladies. Considering the relationship and courage shown by the present applicants, there is possibility of tampering with the prosecution witnesses and there will be also danger to the life of eye witnesses, if the present applicants are released on bail. In view of these circumstances, this Court holds that the applicants are not entitled for the relief of bail.

07. In the result, the Application fails and the same is rejected.

(T.V. Nalawade)
JUDGE

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