

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

CRIMINAL APPLICATION NO. 1857 OF 2017

1. Zatingrao Shankarrao Kamble .. Applicants
Age. 65 years, Occ. Business
 2. Shantabai Zatingrao Kamble
Age. 60 years, Occ. Household
 3. Mahadevi Vasant Bodke
Age. 33 years, Occ. Household
- All R/o. Phule Nagar, Udgir,
District – Latur.

Versus

State of Maharashtra .. Respondent

Mr.Joydeep Chatterji, Advocate for the applicants.
Mr.A.A. Jagatkar, A.P.P. for respondent/State.

CORAM : T.V. NALAWADE,J.

DATED : 21.04.2017

P.C. :-

1. This application is filed for bail. Both the sides are heard. Perused the papers of investigation made available.

2. The crime is registered on the basis of report given by one Avinash Waghmare, who is aged about 25 years. Deceased Vijaykumar Masure was his friend. There is allegation that relation between Vijaykumar Masure and

main accused Shivkumar Kamble were strained due to dispute in respect of business, which they were doing together. The allegation is made that due to the dispute the deceased Vijaykumar was instigating others to give report for taking action against the main accused Shivkumar. One girl was made to sit for agitation against Shivkumar by Vijaykumar. Due to that the relations were strained. The incident in question took place on 21.02.2017 at about 10.15 p.m., when the complainant and Vijaykumar were present near telephone office of Udgir. Shivkumar Kamble came with his four wheeler and driver. They forcibly took Vijaykumar in that vehicle. The complainant had seen more persons in the four-wheeler at that time, but he did not intervene due to fear. The dead body of Vijaykumar was found in the same night. As many as 12 surface wounds were found on his body, which were in the nature of abrasion and contusion. There was compressed fracture of skull bone, showing that hard substance was hit on the face and head. The death took place due to injury to bone.

3. The submissions made on record show that Shivkumar surrendered before police though after money days. The investigating agency could not arrest the four unknown persons, who were found in the company of Shivkumar. There are statements of Vithal and Sanjay to

the effect that they had seen the four unknown persons in the house of present applicant. Applicant Nos.1 and 2 are parents of Shivkumar and applicant No.3 is sister of Shivkumar. Even after arrest of Shivkumar, those unknown persons are not traced. Even the driver of Shivkumar is not traced. Two months period has now expired and the applicants are behind the bar for about two months now.

4. The prosecution wants to show that entire family of Shivkumar had grudge against deceased Vijaykumar and so the applicants had motive. The prosecution wants to show that four unknown persons were hired for killing Vijaykumar and as they had talk with the four persons in their house, present applicants were party to the conspiracy.

5. Though there is such allegation, record of the investigation shows that statements of Vithal and Sanjay were recorded on 09.03.2017. These are the persons who apparently are on the side of Vijaykumar and if they had learnt that some persons had gathered in the house of Shivkumar and they had planned to finish Vijaykumar, they would have taken steps immediately in that regard.

6. Applicant Nos.2 and 3 are ladies and applicant No.1 is aged about 65 years. Due to aforesaid

circumstances, though there is charge of conspiracy, this Court holds that it is not desirable to keep the applicant behind the bar till the disposal of the case, which may be filed against the applicants.

i. In the result, the application is allowed.

ii. The applicants – Zatingrao Shankarrao Kamble, Shantabai Zatingrao Kamble and Mahadevi Vasant Bodke be released on bail, in connection with Crime No.34 of 2017, registered with Udgir City Police Station, Dist. Latur, for the offences punishable under sections 302, 323, 34, 364, 120(B) of the Indian Penal Code, on their furnishing PR & SB of Rs.30,000/- (Rupees Thirty Thousand) by each of them.

iii. The applicants are not to tamper the prosecution witnesses and they are not to commit similar offence.

[T.V. NALAWADE, J.]