

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

CRIMINAL APPLICATION NO. 2399 OF 2017

1 Babus @ Laxman Madhav Dalve, Age
48 years, Occ. Agriculture. **... Applicants**

2 Ramdas Madhav Dalve, Age 35
years, Occ. Agriculture.

Both R/o. Karajgaon, Tq. Ausa,
District Latur.

VERSUS

The State of Maharashtra, **... Respondent**
Through Incharge of police
station Ausa, District Latur.

Mr. M. K. Bhosle, Advocate, H/f Mr. P. V. Barde for
the applicants

Ms. Rashmi.P.Gour, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 6th JULY, 2017

ORDER:

1. Yesterday I have heard arguments of Mr. Barde learned advocate appearing for the applicant and the learned A.P.P. Ms. Gour, appearing for the respondent-State. After hearing some time Mr. Barde sought time for taking instructions from the

applicants and now Mr. Bhosale, learned advocate holding for Mr. Barde states that the order be passed.

2. One Dinkar Ram Dalve r/o. Karajgaon Tq. AUSA lodged a complaint to the police station AUSA on 28.12.2016 stating that, his son namely Shivaji came to his house at about 6 p.m. and immediately went outside at about 12 mid night. One Shankar Dalve came to the house of informant and informed that the applicants have tied Shivaji in their house. Therefore, the informant and his wife immediately rushed to the house of accused persons. At that time they saw that, accused persons were staying outside the house. On enquiry the applicants disclosed that Shivaji entered into their house in the mid night and was making noise, therefore, they have tied Shivaji in their house. The informant requested to leave Shivaji, but they were not ready to leave. At about 5 a.m. police came there and taken Shivaji to police station and action under section 110/117 of the Bombay Police Act was initiated and at about 9 a.m. Shivaji was released. At about 11 a.m.

deceased Shivaji was suffering from giddiness, therefore, he was taken to hospital, where he declared to be dead at about 7 p.m. On the basis of the complaint, police station AUSA District Latur registered Crime No. 23/2017 against the present applicants.

3. I have gone through the statement of witnesses namely Bhagirthi Dalve, Pandit Dalve, Tukaram Dalve, Prakash Dalve. On perusal of the statement of above witnesses it appears that, when the accused persons i.e. applicants were assaulting Shivaji these witnesses tried to intervene the scuffle, however, the present applicants were assaulting Shivaji by tying his hands and legs. They were assaulting by means of sticks. In the morning police came and taken Shivaji to the police station.

4. The statement of above witnesses are consistent about the assault made by the present applicants that too by tying hands and legs of deceased Shivaji. Therefore, from the statement of above witnesses it is very much clear that, Shivaji was in the custody of these applicants in the night.

5. On perusal of the postmortem report, it appears that, the deceased was sustained following injuries :

1. Swelling with Reddish discolouration over right upper limb (disclosing elbow joint and wrist joint)(Adv- x-ray right elbow Jt. X-ray right wrist).
2. Contused abrasion over left upper back 10 x 4 cm.
3. Contused abrasion over left shin of tibia 2 x 2 cm.
4. Contused abrasion over right shin of tibia 2 x 2 cm.
5. Contusion over left knee joint 2 x 2 cm.
6. Contusion over right knee joint 2 x 2 cm.
7. Contusion over left buttock 4 x 2 cm.
8. contusion over right buttock 4 x 4 cm.
9. Swelling over right hand 4 x 4 x 2 cm.

6. The postmortem report i.e. medical evidence is exactly supports the case of prosecution. Therefore, in view of the clear cut evidence against the applicants, they are not entitled for bail. Hence, application is rejected.

(K. L. WADANE, J.)

mkd/-