

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

CRIMINAL APPLICATION NO. 2759 OF 2017

1. Rameshwar s/o Chudaman Jodiwale ... **Applicants**
Age 31 years, Occu: Agriculture
R/o Brahman Galli, Jafrabad,
Taluka Jafrabad Dist.Jalna
- 2 Mukesh s/o Chudaman Jodiwale
Age 26 years, Occu:
Agriculture
R/o as above.
At present both applicants are
in Jalna District Prison, Jalna

VERSUS

The State of Maharashtra ... **Respondent**
Through Police Sub Inspector,
Sadar Bazar Police Station,
Jalna
Taluka and District Jalna

Mr. Rajendra S. Deshmukh, Advocate for the
applicants.

Mr. K. N. Lokhande, APP for the State.

Mr. A. R. Mate, Advocate Assist to PP

CORAM : K. L. WADANE, J.

RESERVED ON : 31.07.2017

**PRONOUNCED : 04.08.2017
ON**

ORDER:

1. On 02.05.2016, one Rakhi w/o Manoj Jodiwale lodged first information report with Sadar Bazar Police station against the applicants and others accused persons alleging therein that accused persons, in prosecution of a common object and on

account of their dispute on land with the informant, kidnapped her three years' old son namely Saksham and killed him. On the basis of the information, Crime No.236/2016 is registered against the applicants and other accused persons under sections 302, 363, 364, 143, 147, 149 and 120B of the Indian Penal Code.

2. After filing of the first information report, supplementary statement of the informant was recorded on the same day i.e. after discovery of the dead body of her son. Thereupon, the informant alleged that the present applicants and other accused persons have committed murder of her son on account of their dispute regarding landed property.

3. I have heard arguments of Mr. Deshmukh, learned counsel appearing for the applicants and Mr. Lokhande, learned APP for the State.

4. During the course of argument, Mr. Deshmukh, the learned counsel for the applicant submitted that the informant himself reported the matter to the concerned police station about missing of her son. Therefore, basically, she was not suspecting

commission of crime by these accused persons, otherwise it was possible for the informant to mention their name in the first information report. He further points out that the applicants, their father, mother and brothers are relative of the informant and their presence at the marriage function is but natural. One can understand the presence of the applicants in the marriage function at Jain High School. However, it is very surprising to note that location of the mobiles of the present applicants is noted at the place of where the actual offence of murder took place, that too during odd hours between 8.00 p.m. and 11.00 p.m.

5. Learned APP submits that there is a complete chain of circumstances, by which, it can be said that present applicants are participants in the commission of the crime.

6. I have perused the papers of investigation. On perusal of the Panchanama under the provisions of Section 27 of the Evidence Act, it appears that at the instance of applicant No.1 his clothes i.e. one pant and one shirt as well clothes of applicant

No.2 i.e. one pant and one shirt came to be seized.

7. From the statement of witness Prabhulal Pahadiye, it appears that there was group marriage ceremony on 01.05.2016 arranged at Jain High School, Guru Ganesh Bhavan, Jalna. Therefore all the relatives were present there. At about 5.30 p.m. son of the informant disappeared from the said school. Therefore, the informant instructed the person on the stage to announce that her son is missing. At the same time, names of the present applicants were declared. Therefore there was quarrel between the informant and wives of the present applicants. At that moment, the informant was suspecting that the present applicants and other accused persons have committed the murder of her son. Statements of mother and brother of the informant are on the same line.

8. Call details of the accused persons were collected by the investigating officer. From the call details of the applicants, it appears that they were present at the place of marriage ceremony between 4.36 to 4.46 p.m. Furthermore, from the call details of the present applicants, it appears that

the applicants were present at the spot of incident at Mantha between 9.00 p.m. to 11.00 p.m.

9. From the Panchanama dated 20.05.2016, it appears that CCTV footage of Jain School were verified, from which, it reveals that another accused namely Pavan had lifted the son of the informant and went away.

10. Looking to the above circumstance, it appears that there is evidence on motive so also there is evidence of the presence of the present applicants alongwith another accused Pavan at the place of Marriage ceremony at Jain High School. Further, there is evidence of presence of the present applicants at the place where the actual incident took place at Mantha between 8.00 p.m. and 11. 00 p.m.

11. These are the connecting circumstances, by which, it appears that prima facie there is sufficient evidence against the present applicants to constitute offence of murder. Immediately after disappearance of the son of the informant, she suspected about commission of the crime by

applicants/accused persons and even there was announcement in the function itself. There is strong evidence on motive coupled with other circumstances.

12. Looking to the above circumstances and considering the seriousness of the offence, the applicants are not entitled for bail. Hence the criminal application is rejected.

(K. L. WADANE, J.)

JPC