IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.610 OF 2018

Sachin Chandrakant Kolte … Applicant
V/s.
State of Maharashtra … Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.616 OF 2018

Pradip Vasant Kolte … Applicant
V/s.
State of Maharashtra … Respondent

Mr.Harshwardhan Akolkar for the Applicants.
Mr.S.H.Yadav, APP for the Respondent/State.
Mr.D.S.Hake, PI, Jejuri Police Station.

CORAM : P.N.DESHMUKH, J.
DATE : APRIL 4, 2018.

P.C.:

. Issue notice to the Respondent. Learned APP waives notice for the Respondent. Investigating Officer is also present. Both these applications since are arising out of Crime No. 46 of 2015 registered at Jejuri police station, District Pune, under Sections 302, 324, 504, 506, 143, 147, 148 r/w 149 of Indian Penal code are decided by common judgment and considered together for the sake of convenience. Learned counsel for the applicants submits that there is nothing on record to establish homicidal death of

deceased. Rajendra Popat Khengre involved in this case and even according to post-mortem report deceased is certified to have sustained abrasion over his first and second toe of his right leg.

2. On the earlier date of hearing, learned Additional Public Prosecutor had submitted that for want of viscera report, no cause of death certificate was issued. Learned APP produced the CA report alongwith cause of death certificate. Perusal of both these documents would reveal that the CA report is negative with regard to possibility of deceased consuming or of administration of poison and according to the cause of death certificate death has occurred due to cardiac arrest due to vaso vagal shock. In the background of injuries and the cause of death as above, when report lodged by Navnath Yadav is perused, it is revealed that on 28th March 2016, there was assault upon said complainant at the hands of Mayur Yadav and his cousin Yogesh and other co-accused at Pisarve, of which report was lodged by Navnath against said persons. Thereafter, on the following day complainant Navnath in the evening alongwith his brother Sagar and 22 friends including deceased Rajendra Khengre went to Pisarve village to the house of Yogesh Kolte, where it is stated that applicants in

both these applications alongwith about 15 co-ccused including one juvenile accused and other persons from the village committed assault on complainant and his 22 friends including deceased Rajendra. In the report, it is specifically stated that deceased was manhandled and assaulted by kick blows and fist blows. Considering the facts as aforesaid, when the post-mortem report is perused that do not establish the contents of report as aforesaid, as according to this documents deceased had sustained injuries by way of abrasion over first and second toe of the right leg. If the contents of report as aforesaid are to be relied, then there has to be more number of injuries. In that view of the matter, prima facie contents of report appears to be exaggeration.

3. Learned APP on instructions from the Investigating Officer, who is present in the court submits that though there are statements of other witnesses, no overt act attributed to the applicants in any manner, as according to these statements assault is committed by all 14 to 15 persons. In view of statement as aforesaid and having considered the fact that except for injuries in the form of two abrasion, as no injuries are sustained by deceased, who even according to final cause of death is

certified to have died of cardiac arrest due to vaso vagal shock. Applications are liable to be allowed by imposing conditions as follows:-

ORDER

i. In the event of arrest of applicants in Crime No. 46 of 2015 registered with Jejuri Police station, Pune, for the offence punishable under Sections 143, 147, 148, 323, 302, 504, 506 r/w 149 of IPC, the applicants shall be released on furnishing P.R. bond in the sum of Rs.15,000/- each with one surety in the like amount.

ii. While on bail, applicants shall mark presence with Investigating Officer for period of one week from 7th April 2018, and thereafter, as and when called till the charge-sheet is filed.

iii. Applicants shall not leave jurisdiction of Jejuri police station without intimation to Investigating Officer.

(P.N.DESHMUKH,J.)

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