

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 3171 OF 2018**

Ramchandra Shankar Shahapure & Anr.Applicants.

Vs.

The State of MaharashtraRespondent.

Mr. Shekhar Ingawale for the Applicants.

Ms. J.S. Lohokare APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 18th DECEMBER, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. 94 of 2018 dated 31st May, 2018 registered with Kurundwad Police Station, District Kolhapur under Sections 302, 504 and 506 read with Section 34 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicants and the learned APP. Perused the charge sheet.

3 The present Application is filed by the Accused Nos. 1 and 4 as per the charge-sheet.

It is the prosecution case that, the Applicants found Bhupal Nargude (Deceased) with scantily cladded clothes, near the house of

their deceased brother Shivgonda Shahapure, in the wee hours of 31st May, 2018. Deceased Shivgonda Shahapure is the real brother of Applicant No.1 and co-accused Appaso Shankar Shahapure. The accused persons suspected that, Bhupal Nargude (deceased) was having an extra martial affair with their sister-in-law namely Smt. Vilasmati Shivgonda Shahapure. The Accused persons therefore, assaulted Bhupal Nargude with stick and iron rod. The Applicant No.1 thereafter, dropped Bhupal Nargude at his residence and went away. Bhupal Nargude later on succumbed to injuries. The present Applicants came to be arrested on 31st May, 2018 and after completion of investigation, the police have submitted charge-sheet.

4 The statements of the witnesses indicate that, the deceased Bhupal Nargude was found near the house of witness Smt. Vilasmati Shahapure in scantily cladded clothes and it is due to the said reason, the Applicants got suspicious that, the deceased Bhupal Nargude was having extra marital relations with their sister-in-law and therefore, with a view to teach him a lesson, they thrashed him. The postmortem notes indicate that, the deceased has suffered 7 abrasions and 2 contusions on his body. One CLW is also noted by the Medical Officer on the body of the deceased.

5 Mr. Sheetal Nargude, the first informant, in his statement has stated that, the deceased was in conscious state of mind when the Applicant No.1 dropped him at his residence. The deceased demanded water for drinking and at that time gave oral dying declaration to him stating that, at about 3.30 a.m. of 31st May, 2018, while he was proceeding to his agricultural field for releasing water to the crops, the Applicants along with other co-accused persons for the afore-stated reason of suspicion, assaulted him with stick and iron rod.

It thus, *prima facie*, appears that, the Applicants had no intention to commit murder of the deceased and it is only for the reason to teach him a lesson, arising out of the said suspicion, they assaulted him.

6 In view thereof, the Applicants can be released on bail.

Hence, the following order.

- a) The Applicants be released on bail in C.R. No. 94 of 2018 dated 31st May, 2018 registered with Kurundwad Police Station, District Kolhapur on their furnishing PR bond of Rs.25,000/- each with one or two separate solvent local sureties in the like amount.

- b) After their release from Jail, the Applicants shall attend the Kurundwad Police Station, District Kolhapur, on every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- c) The Applicants shall attend all the dates before the Trial Court unless precluded for medical reasons.
- d) The Applicants shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)