

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1112 OF 2019

1] Parubai Laxman Agashe, Age 60
Years, Occ. Household, Resident of
Sarola [Bk.], Taluka and District
Osmanabad

Petitioners

2] Ramkrushna @ Bibhishan Laxman
Agashe, Age 65 Years, Occupation
Service, Resident of as above

V E R S U S

1] The State of Maharashtra, through
Police Station Officer, Osmanabad
Rural Police Station, District
Osmanabad

Respondents

2] Dashrath Sahdeo Kathare, Age 38
Years, Occupation Labourer, Resident
of Sarola [Bk.], Taluka and District
Osmanabad

Mr. A.S. More, Advocate for the Petitioners
Mrs. V.N. Patil-Jadhav, A.P.P. for Respondent
No.1/State

Mr. U.B. Bilolikar [appointed] and Mr. Satej Jadhav,
Advocates for Respondent No.2

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**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATE : 9th December, 2019

ORAL JUDGMENT [PER : T.V. NALAWADE, J.] :

Admit. Both the sides are heard.

2. This appeal is filed against the order passed by the learned Additional Sessions Judge, Osmanabad, below Exhibit-1 in Criminal Bail Application No.366 of 2019. Said application was filed for grant of relief of bail by present petitioners in Crime No.220 of 2019, registered at Osmanabad Rural Police Station, Osmanabad for the offences punishable under Sections 302 read with Section 34 of Indian Penal Code and under few Sections of Scheduled Casts and Scheduled Tribes [Prevention of Atrocities] Act, 1989.

3. The papers of investigation are made available. Crime was registered on the basis report given by son of the deceased. He gave report on the basis of information received from wife of informant. She learnt that in front of house of Gopal Kumbhar, both the petitioners had beaten deceased Sahdeo Thakare by stick. It is the contentions of relatives of the deceased, deceased had taken hand loan of Rs.150/- from petitioner No.2-Bibhishan by pledging his axe. After that, he had returned Rs.100/-, but the remaining amount was not returned till the date of this incident. The deceased was addicted to liquor. The allegations are made that an amount of Rs.50/- was

demanded from the deceased, but deceased wanted more liquor.

4. The papers of investigation show that there is no single eye witness to say that on 19th September, 2019 the incident allegedly took place at 09.00 a.m. in village. At the scene of offence, some houses are there in the vicinity where dead-body of deceased was lying and blood was found. Opinion is reserved by the Doctor who conducted the postmortem of the dead-body. No visible injury was found. On incision the blood came out of skull.

5. In view of above facts, this Court holds that the applicants need to be released on bail. The petitioners are behind bars since 20th September, 2019 till today. In the result, we proceed to pass following order :

O R D E R

1] Appeal is allowed.

2] The order passed by the learned Additional Sessions Judge, Osmanabad, dated 24th October, 2019, below Exhibit-1, in Criminal Bail Application No.366 of 2019 is hereby quashed and set aside.

3] The application filed by the petitioners for grant of bail is hereby granted. Both the applicants be released on bail on executing P.R. bond of amount of Rs.15,000/- [Rupees Fifteen Thousand] each. They shall not tamper with the prosecution witnesses. They shall not commit similar offence while on bail.

4] Fees of the learned Advocate appointed on behalf of respondent No.2, is quantified at Rs. 3,000/- (Rupees three thousand), which would be payable by the High Court Legal Services Sub-Committee, Aurangabad.

(M.G. SEWLIKAR, J.)

(T.V. NALAWADE, J.)

SRM/9/12/19