

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.662 OF 2019

Vasanta s/o Gopa Ade and another .Vs. State of Maharashtra, PSO, P.S.
Pusad (Rural), Tah. Pusad, Dist. Yavatmal.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr. V.N. Patre, Advocate for applicants.

Mr. S.M. Ghodeswar, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : OCTOBER 14, 2019

Heard Mr.Patre, learned counsel for applicants and Mr.Ghodeswar, learned Additional Public Prosecutor for non-applicant/State. Also perused the detailed reply filed on behalf of the prosecution.

As per the prosecution case complainant-Umesh Rathod resident of village Kawadipur, Tq. Pusad, Dist. Yavatmal lodged his report resulting into registration of Crime No.248/2019 registered with Police Station, Pusad (Rural), Dist. Yavatmal for an offence punishable under Sections 306, 323 read with Section 34 of the Indian Penal Code in which present applicants are apprehending their arrest.

According to the prosecution case on 13.06.2019 when the other co-accused Jyotibai Ramdhan Rathod and Namdeo Ramdhan Rathod picked-up quarrel with complainant's younger brother Shubham Rathod on

account that he demanded daily wages. According to the prosecution, at that time present applicant Vasanta assaulted on Shubham by fist blows. After getting this information when the first informant went to pacify the quarrel, at that time he noticed that applicant no.1 Vasanta was heavily drunk. According to the prosecution case, thereafter applicant no.1 Vasanta called his son accused no.2 Sharad. Thereafter they lifted Shubham and threw him on toilet staircase. According to the prosecution, on the next day i.e. on 14.06.2019, when Shubham was standing at Datta Square for lodging report, at that time present applicants came and extended threat. According to the prosecution case, therefore Shubham consumed poison resulting into his death.

In view of the aforesaid nature of the accusation, in my view, *prima facie* there is no tinch of abetment on the part of the present applicants to Shubham to commit suicide. Of course during course of trial it shall be open for the prosecution to prove the element of abetment against the present applicants.

This Court has already granted ad interim protection in favour of the applicants on 30.09.2019 with a direction that they shall attend Police Station, Pusad (Rural) on specified dates and accordingly they have attended the police station and extended cooperation with the investigating officer.

In view of the aforesaid nature of allegations, in my view, the custodial presence of the present applicants is not necessary. Resultantly, I pass following order :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.248/2019 registered with Police Station, Pusad (Rural), Dist. Yavatmal for an offence punishable under Sections 306, 323 read with Section 34 of the Indian Penal Code, applicant no.1 – Vasanta s/o Gopa Ade and applicant no.2 – Chetan s/o Vasanta Ade, be released on bail on they executing P.R. Bond in the sum of Rs.10,000/- each, with one solvent surety each in the like amount.
- (iii) Applicants are directed to attend Police Station, Pusad, Dist. Yavatmal once in a week i.e. on every Sunday and shall be with the investigating officer from 03:00 p.m. to 05:00 p.m., till filing of the charge-sheet.

The application is disposed of.

JUDGE

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