

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

CRIMINAL WRIT PETITION NO. 1324 OF 2020

1. Devidas Satwaji Salwe
Age 39 years, Occu: Agriculture

2. Gajanan Murlidhar Salwe
Age 28 years, Occu: Agriculture

Both R/o Ranjona, Tq. Basmath,
Dist. Hingoli

... Petitioners

Versus

The State of Maharashtra
Through Police Inspector
Police Station, Tadkalas,
Tq. Purna, Dist. Parbhani

... Respondent

....

Mr. G. K. Thigle-Naik, Advocate for the petitioners

Mr. S. P. Tiwari, APP for respondent - State

....

**CORAM : R. G. AVACHAT, J.
(Vacation Court)**

DATED : 11th NOVEMBER, 2020

ORAL JUDGMENT :

. Rule. Rule made returnable forthwith. Heard finally with
consent of learned counsel appearing for the parties.

2. The petitioners, accused in Crime No.100 of 2020, registered at Tadkalas Police Station, Taluka Purna, District Parbhani, for the offences punishable under Sections 302, 201 read with 34 of Indian Penal Code, hereby seek bail on the ground of failure of the prosecution to file charge-sheet within stipulated period of 90 days. The petitioners have come to this Court since their application for release on default bail was turned down by the learned Judicial Magistrate First Class. The learned Additional Sessions Judge affirmed the said order.

3. The facts are not in dispute. The petitioners were arrested on 08.06.2020 since they are alleged to have committed offence punishable under Section 302. The investigating officer was expected to file charge-sheet within a period of 90 days from the date of arrest of petitioners. Admittedly, 90 days got over on 05.09.2020. The petitioners moved application on 07.09.2020 for grant of bail. Admittedly, when the application was moved, the charge-sheet had not been filed. The investigating officer, however, presented the charge-sheet on the same day i.e. on 07.09.2020, but post the petitioners moved application for exercise of their right to be released on bail on account of failure of filing of the charge-sheet

within a statutory period. The aforesaid facts undoubtedly disclose that after the right to get a statutory bail was accrued, the charge-sheet came to be filed. The right to be released on bail does not get defeated.

4. In view of the above, the writ petition is allowed in terms of prayer clause (C).

5. The petitioners be released forthwith on their executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand Only) each with surety bond in the like amount.

6. The petitioners shall not tamper with the prosecution evidence.

7. Rule is made absolute in the aforesaid terms.

[R. G. AVACHAT, J.]

SMS