

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 BAIL APPLICATION NO.1383 OF 2020

1. BABU S/O SHRIHARI KEKAN
2. SHRIHARI S/O KISAN KEKAN
VERSUS
THE STATE OF MAHARASHTRA

WITH

CRIMINAL APPLICATION NO. 2219 OF 2020
IN BA/1383/2020

MOHAR W/O BABASAHEB LAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr. Thombre S.S.
APP for Respondent-State : Mr. R. V. Dasalkar.
Advocate for Informant to assist APP : Mr. S. D. Munde.

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CORAM : V. K. JADHAV, J.
DATE : 17.12.2020

PER COURT :-

1. Heard learned counsel Mr. S. D. Munde for the applicant in Criminal Application No.2219 of 2020. For the reasons stated in the application, Criminal Application is allowed in terms of prayer clause "B". Criminal application accordingly disposed off.

2. The applicants are seeking regular bail in connection with Crime No.150 of 2020 registered with Yusuf Wadgaon Police Station, District Beed for the offences punishable under Sections 302, 143, 147, 149, 341, 504, 506, 201 of the I.P.C. Their application with similar prayer bearing Criminal Bail Application No.478 of 2020 came to be rejected by the learned Additional Sessions Judge, Ambajogai.

3. The learned counsel for the applicants submits that the prosecution case entirely rests upon circumstantial evidence and there is no direct evidence in this case. The learned counsel submits that even there is no chain of circumstantial evidence. There is circumstantial evidence in the form of initial quarrel with the informant and the other family members inquiring with them, the whereabouts of deceased Babasaheb, however, no further connecting evidence is against the applicants. The learned counsel submits that even the motive as alleged is also not adequate. It has been simply alleged that deceased Babasaheb had talked to the wife of co-accused Chandrashekhar on her mobile, however, it is not clear from the investigation papers as to what led all the accused

persons, particularly these two applicants to commit the murder of deceased on that count. The learned counsel submits that there is no criminal history. The applicants are having their roots in the society. They are easily available for trial. The applicants are ready to abide any conditions, if imposed by this Court, while enlarging them on bail. The applicants may be released on bail.

4. The learned APP assisted by Advocate Mr. S. D. Munde has strongly resisted the application on the ground that even though there is no direct evidence in this case, there is a circumstantial evidence against the applicants. On the day of incident, at about about 3.00 p.m., the present applicants along with co-accused persons had been to the house of the informant and threatened the informant and the other family members and also extended the beating to brother of the deceased namely Suresh. The applicants and the co-accused persons were making an inquiry as to the whereabouts of deceased Babasaheb and further informed to the informant and other family members that deceased Babasaheb had spoiled their house. After giving them the threats to bring the

deceased to their house, the applicant and the co-accused persons left that place. The learned APP submits that *prima facie* there is an evidence about the homicidal death. The deceased died due to “Hemorrhagic shock due to multiple injuries”. Even the witnesses have seen these applicants along with the co-accused persons armed with wooden stick, wooden log waiting for deceased Babasaheb. Furthermore, the informant has called the deceased on his mobile, it was informed by him that he is near the field of one Subhash Lad along with the co-accused persons and applicant Shrihari. The learned APP submits that thereafter, the dead body of the deceased was found in the naked condition. The learned APP submits that the motive plays the great role in the case of circumstantial evidence. It has been revealed during investigation that deceased Babasaheb had made a phone call to the wife of one of the co-accused Chandrashekhar and therefore, the applicants and co-accused persons went to the house of the informant in search of deceased Babasaheb and further given threats to them to bring Babasaheb towards them at the earliest. The learned APP submits that *prima facie* there is a strong case against the applicants. There is a possibility of

tampering with the prosecution evidence, if the applicants are released on bail. The applicants may not be released on bail.

5. On going through the allegations made in the complaint and on perusal of the charge-sheet, it appears that the prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case. It appears that on the day of incident, at about 3.00 p.m., the applicants along with co-accused persons had been to the house of the informant and threatened the informant and the other family members and even extended the beating to some of the family members. At that time, the applicants and the accused persons have made an inquiry as to the whereabouts of deceased Babasaheb. The applicants and the co-accused persons had also told to the informant and the other family members that deceased Babasaheb has spoiled their house, however, there is no further connecting evidence against the applicants. Even assuming that there was a motive for the applicants and the co-accused persons to kill the deceased Babasaheb, since deceased Babasaheb used to make phone call to the wife of co-accused Chandrashekhar, however, there is

hardly any evidence against the applicants to connect them with the alleged commission of murder. At the most, the earlier incident and the said motive as contended may raise a strong suspicion against the applicants, however, considering the same, the case is now made out for grant of bail. There is no criminal history. The applicants are available for trial. Thus, by imposing certain conditions, I am inclined to release the applicants on bail. Hence, I proceed to pass the following order :

ORDER

1. The application is hereby allowed.
2. The applicant No.1. BABU S/O SHRIHARI KEKAN and No.2. SHRIHARI S/O KISAN KEKAN in connection with Crime No.150 of 2020 registered with Yusuf Wadgaon Police Station, District Beed for the offences punishable under Sections 302, 143, 147, 149, 341, 504, 506, 201 of the I.P.C., be released on bail on furnishing PB. of Rs.20,000/- (Rupees Twenty Thousand only) each with one solvent surety of the like amount each on the following conditions :-
 - a] The applicants shall not tamper with the prosecution evidence in any manner.

- b] The applicants shall not enter within the limits of village Ladewadgaon, Tq. Kej, District Beed till the conclusion of the trial.
3. Application is accordingly disposed off.
4. The observations made herein above are *prima facie* in nature and it is for the Trial Court to appreciate the evidence on its own merits during the full fledged trial of the case.

(V. K. JADHAV, J.)

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vmk/-