

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

CRIMINAL APPLICATION (BA) NO. 606 OF 2020

(Bhavji s/o Mircha Gota and another ..vs.. State of Maharashtra, through PSO, PS Kasansur, District
Gadchiroli)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.C. Jaltare, Counsel for the applicants,
Smt. S.S. Jachak, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 21-09-2020

Hearing was conducted through video conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Heard.

3. The applicants are seeking regular bail in connection with Crime 15/2019 registered with Kasansur Police Station, District Gadchiroli for offence punishable under Section 302 of the Indian Penal Code.

4. The deceased Sonu Gota had criminal antecedents and had served seven years imprisonment for two separate convictions under Section 307 and Section 395 of the Indian Penal Code. The dead body was recovered on 21-12-2019 and the present applicants were arrested on 01-1-2020.

5. The statement of the wife of the deceased attributes the motive to co-accused Vinod. According to her, Vinod, who is the nephew of the deceased, was cultivating the land of the deceased and there was a dispute.

6. Adverting to the material in the charge-sheet against the applicants, who are arrayed as accused 3 and accused 2, the clothes allegedly worn by all the accused on the date of the alleged crime, are recovered at the instance of applicant 1-Bhavji. The other incriminating material brought to my notice is a statement of Suresh, who claims to be an eyewitness at least to the extent of the initial assault with sticks. Shri A.M. Jaltare, learned Counsel points out that while the body was recovered on 21-12-2019 and the applicants were arrested on 01-1-2020, the statement of Suresh is recorded belatedly on 07-2-2020. Shri A.M. Jaltare would further submit that the version of the said witness is highly improbable inasmuch as according to the witness, the accused Vinod virtually forced him to accompany the accused to witness the murder.

7. It would not be necessary to minutely analyze the material on record and it would ultimately be for the trial Court to judge the probative value of the statement of the alleged eyewitness. However, considering that the applicants have no criminal antecedents and the

discovery in itself is not a very strong piece of incriminating material, I am inclined to release the applicants on bail subject to certain conditions.

8. The application is allowed.

9. The applicants shall be released on bail on executing personal bond of Rs.25,000/- each with a solvent surety of like amount.

10. Considering the prevailing circumstances, the surety shall be furnished within four weeks of the release.

11. The applicants shall make no attempt to contact any witness or to otherwise influence the course of trial.

12. The applicants shall not enter the territorial limits of village Zuri till the conclusion of the trial unless permitted to do by the trial Court.

13. The applicants shall attend each date of hearing scrupulously.

14. The applicants shall not leave the country without the permission of the trial Court.

JUDGE

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