

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

CRIMINAL APPLICATION (ABA) NO.887/2019

Bhagwan Sakharam Pawar and Ors. .vs. The State of Maharashtra through
PSO P.S. Lonar, Dist. Buldhana.

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

Court's or Judge's orders.

Mr. P. B. Patil, Advocate for applicants.
Mr. M. J. Khan, A.P.P. for non applicant.
Mr. N. B.Kalwaghe, Advocate assisting the prosecution.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 16, 2020

Criminal Application (APPP) No.55/2020

This is an application filed by widow of deceased
in the present crime.

For the reasons stated in the application, the
application is allowed.

The application is disposed of.

Criminal Application (ABA) No.887/2019

This is an application for pre-arrest bail since the
applicants are apprehending their arrest in connection with
Crime No.305/2019, registered with Police Station, Lonar,
Tq. Lonar, Dist. Buldhana for an offence punishable under
Section 307 of the Indian Penal Code (IPC), which was
ultimately converted into Section 302 of the IPC.

Heard Mr. Patil, learned counsel for applicant,
Mr.Khan, learned A.P.P. for non applicant and Mr.Kalwaghe,
learned counsel assisting the prosecution.

Criminal law was set into motion on 22.10.2019 by Digambar Pawar. As per his submission, he is resident of village Wadgaon Tejan and stays with his son Ratan, who is married and his another son Madan, also resides in the very same village, however, separately. Prior to one month of lodging of the report, one Jyoti Kailash Pawar lodged a report against his younger son Ratan that he committed rape on her, in which he was arrested and was released on bail.

The report states that on 21.10.2019, when Digambar was present in his house, his daughter in law Geeta w/o Ratan Pawar came and disclosed to him that Kailash Namdeo Pawar gave blows of sickle on the head of her husband, resulting into bleeding injury on his head and he is lying near the house of one Kisan Gunjkar. Hence, Digambar, his wife Vithabai and his daughter in law went there. They found that his younger son Madan and others were already present there. Digambar noticed bleeding injury on the head of Ratan. He was taken in a jeep of Ramesh Jadhav to Mehkar. There they were advised that he should be taken to Aurangabad and immediately Ratan was shifted to Apex Hospital at Aurangabad.

During treatment, ultimately Ratan succumbed to the injuries at J. J. Hospital, Mumbai. The provisional death certificate, which is available in the investigation papers is placed for my perusal. It shows that the cause of death is head injury.

Statement of Geeta was recorded on 25.10.2019 and her supplementary statement was recorded on the next

day. Ratan died on 02.12.2019. In the first information statement of Geeta, even presence of the preset applicant is not mentioned. Perusal of the said statement would show that Kailash assaulted on her husband Ratan by means of sickle on his head. However, after death of Ratan, she has improvised her version and not only stated the presence but also attributed certain overt acts to each of the applicants. As per the improvised version, applicant no.5-Namdeo and applicant no.3-Sakharam pushed her whereas applicant no.2-Vishnu gave stone blow on the knee of the deceased and the applicant Namdeo and Sakharam gave fist and kick blows.

Kailash is already arrested and is in jail. The weapon is already seized at the behest of arrested accused Kailash. The spot panchanama does not show that there was any stone on the spot of the incident.

Looking to the fact that in the first statement Geeta did not even attribute presence of the applicant. However, their presence and the overt act is attributed only after the death of Ratan, her husband. Thus, in my view, the applicants need to be protected. Consequently, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.305/2019, registered with Police Station, Lonar, Tq. Lonar, Dist. Buldhana for an offence punishable under Section 302 of the Indian Penal Code, applicant no.1-

Bhagwan Sakharam Pawar, applicant no.2-Vishnu Sakharam Pawar, applicant no.3-Sakharam Vishnu Pawar, applicant no.4-Prakash alias Raju Tryambak Pawar and applicant no.5-Namdeo Baburao Pawar be released on bail on they executing P.R. Bond in the sum of Rs.15,000/- each with one solvent surety each in the like amount.

(iii) Applicant no.1-Bhagwan Sakharam Pawar, applicant no.2-Vishnu Sakharam Pawar and applicant no.4-Prakash alias Raju Tryambak Pawar are directed to attend Police Station, Lonar, Tq. Lonar, Dist. Buldhana on every Monday and Tuesday and shall be with the investigating officer from 11.00 a.m. to 05.00 p.m. till filing of the charge-sheet.

(iv) After filing of the charge-sheet, they shall attend Police Station once in a month i.e. third Saturday of every month and shall be with the investigating officer from 03.00 p.m. to 05.00 p.m.

The application is disposed of.

JUDGE