

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.415 OF 2021

KACHRU RAMA BADVE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. N.S. Ghanekar, Advocate for applicants

Mr. A.M. Phule, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 04th MAY, 2021

PRONOUNCED ON : 08th JUNE, 2021.

ORDER :

1 Present applicants have been arrested in connection with Crime No.56/2021 dated 06.03.2021 registered with Pishor Police Station, Dist. Aurangabad, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860. They have filed present application under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. N.S. Ghanekar for applicants and learned APP Mr. A.M. Phule for the respondent. In order to cut short, it can

be said that they have argued in support of their respective contentions.

3 The First Information Report has been lodged by one Laxman Rangnath Raut on 06.03.2021 in respect of an incident, which appears to have taken place between 26.12.2020 and 27.12.2020. Deceased was the son of the informant. In spite of finding the dead body of his son on 27.12.2020 at about 8.00 a.m., the report has been lodged on 06.03.2021. Therefore, there appears to be considerable delay, for which at present we do not find any explanation in the FIR. However, the fact can also be seen from the another angle that though the dead body was found on 27.12.2020 at about 8.00 a.m., after the dead body was taken by the police for postmortem the viscera was preserved. Police were about to tell the informant, as to whether deceased Yogesh has been murdered or not. Thereafter it appears that after the report has been received that it is homicidal death, he has lodged the report. If this angle is taken, then there may not be delay in lodging the FIR.

4 The informant contends that he resides with his wife, two sons and one daughter. His daughter is married. Elder son Vilas has some mental problem. Present applicants are neighbours. Applicant No.1's daughter was unmarried and eight days prior to 26.12.2020 informant and his wife came to

know about the love affair between Yogesh and applicant No.1's daughter. When they asked Yogesh about the same, he told them that he had intention to marry her. Thereafter, when applicant No.2 had gone to the house of informant, informant and his wife told the said fact to him and requested for arranging marriage between Yogesh and the daughter of applicant No.1. Applicant No.2 did not say anything and left the house. However, two days thereafter Yogesh was threatened by all the applicants stating that if he is seen around their house, then he would be killed. Informant had asked Yogesh, as to where his mobile is ? Then he has told, his mobile is given to the daughter of applicant No.1. On 26.12.2020 around 6.00 to 7.00 a.m. Yogesh went on motorcycle by stating that he would visit his friend Bapu. He came back around 8.30 a.m., but was under tension. He again left the house around 9.00 to 10.00 a.m. without informing anything. Informant raised suspicion and, therefore, he asked his relatives to search for Yogesh, but he could not be found. At about 8.00 a.m. on 27.12.2020 informant and one Kashinath Bhadge were searching Yogesh with others. One of his relatives informed that dead body of Yogesh is found on the hill near agricultural land Gat No.29. All of them went there. They found that dead body of Yogesh was found in a ditch. He was half naked and even his dead body had ants. In his FIR itself he says that as the proposal of marriage between Yogesh and the daughter of applicant No.1 was refused, informant has suspicion that

Yogesh might have been murdered by the present applicants. Therefore, it appears that the case would be based on circumstantial evidence and when the FIR is based on suspicion the further physical custody of the applicant may not be required. They deserve to be released on bail. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicants viz. 1) Kachru Rama Badve, 2) Kisan @ Krushna Rama Badve, 3) Kaluba Rama Badve and 4) Yogesh Kachru Badve, who have been arrested, in connection with Crime No.56/2021 dated 06.03.2021 registered with Pishor Police Station, Dist. Aurangabad, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, be released on PR. of Rs.50,000/- (Rupees Fifty Thousand only) each with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 The applicants shall not tamper with the evidence of the prosecution, in any manner.

4 They shall not indulge in any criminal activity.

5 They shall attend the Police Station, Pishor, Dist. Aurangabad on every Monday and Thursday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

6 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)

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