

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

BAIL APPLICATION NO.1343 OF 2021

- 1) Pravin Balaji Shinde,
- 2) Santosh Raosaheb Shinde

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Shri Avinash D. Hande Advocate for Applicants.
Shri S.D. Ghayal, A.P.P. for Respondent-State.
...

CORAM: M.G. SEWLIKAR, J.

DATE : 1st DECEMBER, 2021

ORDER :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail in connection with Crime No. 137 of 2020 registered with Osmannagar Police Station, District-Nanded, for the offences punishable under Sections 302, 364, 143 of the Indian Penal Code.

2. Facts in brief are that the deceased was working as an agricultural labour with the applicants. On account of some dispute the deceased had stopped the work with the applicants. It is alleged that the applicants insisted on the deceased to work with them in accordance with the terms of the contract, however, deceased was not prepared to continue the work. It is alleged that the deceased was abducted by the applicants. Deceased died while in the custody of Balaji Shinde, Ananda Shinde and the applicants. Post-mortem Report shows that the deceased had multiple injuries and the cause of death was the injury to chest and spine.

3. First Information Report was lodged by the son of the deceased, on the basis of which offence as aforesaid came to be registered against the applicants and others.

4. Heard Shri Hande, learned counsel for the applicants and Shri Ghayal, learned APP for the State.

5. Learned counsel Shri Hande submits that the entire case of the prosecution is based on circumstantial evidence. There is no eye witness to the incident. He further submits that all the

witnesses stated that they heard that the deceased was beaten by the applicants. He, therefore, prayed for release of the applicants on bail.

6. Learned APP Shri Ghayal submits that there is last seen theory, which shows that wife of the deceased had seen the deceased in the company of the applicants one day before the incident. He submits that the deceased was in the custody of the applicants. The deceased had stopped working with the applicants. He submits that the post-mortem injuries show that death was due to injury on head.

7. Charge-sheet is filed. Admittedly, deceased was in the custody of the applicants at the time of incident. The record shows that the applicants had taken the deceased to the hospital for treatment. The statement of Dr. Umarekar of Nanded shows that one Gangaram Shete (deceased) was brought to his hospital by the applicants stating that injured had fallen from slab. When deceased was examined by Dr. Umrekar on OPD basis, he found that the deceased had sustained contused wound on the back and on the abdomen. This conduct of the applicants belies the theory of murder by the applicants. Charge-sheet further shows

that same doctor i.e. Dr. Umerkar had written a letter to the police sub inspector on 30th November 2020. The said letter certifies that the deceased had spine problem and his vertebrae was pressed. The deceased also had back pain and stomach pain. The deceased was in critical condition, therefore, he was referred to Government hospital.

8. It is true that there is statement of wife of the deceased, which shows that the deceased was forcibly taken by the applicants. This statement further shows that the applicants themselves had provided medical treatment to the deceased. There is no eye witness to the incident. Charge-sheet is filed. Applicants are in jail since 4th December 2020. They do not have criminal antecedents. They have agricultural land and therefore, they have permanent residence at village Jomegaon, Taluka-Loha, District-Nanded.

9. In this view of the matter, I am inclined to release the applicants on bail. Hence the following order is passed:

ORDER

(i) Bail Application is allowed.

(ii) Each of the Applicants be released on bail on their furnishing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount, in connection with Crime No. 137 of 2020 registered with Osmannagar Police Station, District-Nanded, for the offences punishable under Sections 302, 364, 143 of the Indian Penal Code.

(iii) Bail Application is disposed of.

(iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]