

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1241 OF 2021

Sagar Gorakh Mane & Anr. Applicants

versus

State of Maharashtra Respondent

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- Mr.V. V. Purwant i/b. Raju M. Yamgar, Advocate for Applicants.
- Ms.Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 31st MARCH, 2021

P.C. :

1. The Applicants are seeking their release on bail in connection with C.R.No.771/2020 registered with Mohol Police Station, Solapur, dated 23/11/2020 under sections 302, 307, 452 r/w 34 of the Indian Penal Code.
2. The Applicants were arrested on 23/11/2020 and since then they are in custody. Investigation is over and the charge-sheet is filed.

3. Heard Mr.V. V. Purwant, learned counsel for the Applicant and Ms.Pallavi N. Dabholkar, learned APP for the State.
4. Applicant No.2 is Applicant No.1's father. Applicant No.1 had an affair with one Pradnya, who was married to one Shankar Namdev Mane against her wish. The case pertains to death of Shankar's father Namdev and forcible administration of poison to both Namdev and Shankar. According to the prosecution case, there was enmity between the two families. The villagers in the village tried to resolve the issue by taking both of them to a temple praying for divine intervention to find out the truth. However, the Applicants' family refused to oblige. The deceased and his son were not happy with the situation. The prosecution case is that on 22/11/2020, in the night, four persons covering their face entered the house of Namdev and Shankar. They forcibly administered poison to Namdev and Shankar. Namdev succumbed to poisoning. Shankar survived. On this basis FIR is registered.

5. Learned counsel for the Applicant submitted that the incident could not have taken place as described in the prosecution case. He submitted that it was a case of suicide by Namdev. Even Shankar had attempted to commit suicide. But he survived. He submitted that there is correspondence between SDPO and the Investigating Officer and only at the instance of the superior officer section 302 is added in the charge-sheet. The police had treated this case as a case of suicide. He submitted that there are statements of witnesses to show that Shankar was always under depression and because of this, there used to be fight between Shankar and his father, which had led to commission of suicide. There are statement of some witnesses who had seen the Applicants in their house at the time of commission of offence.

6. Learned APP opposed this application. She submitted that there is an important statement of one of the victims Shankar himself who had stated about the exact role played by

the Applicants. He has stated that four people entered their house covering their faces. During the incident the Applicants were unmasked and therefore he could recognize them. Shankar and his father were forcibly administered poison. She therefore submitted that bail should not be granted to the Applicants.

7. I have considered these submissions. With assistance of both the learned counsel I have perused the charge-sheet.
8. The FIR is lodged by Jayashree Namdev Mane, wife of Namdev. She has stated that the incident had taken place on 22/11/2020 at about 11.30 p.m. That time she was in the kitchen. Unknown persons had entered their house and they had forcibly administered poison. The statement itself is rather doubtful. If she was in the house, it is difficult to believe that she did not see anybody entering her house. She could only see the incident after those persons were actually administering poison during the scuffle.

9. The post-mortem notes show that there was no external injury except therapeutic injection mark. The cause of death was mentioned to be consistent with poisoning. However, necessary samples were preserved.
10. The victim Shankar's statement is important in this case. He has narrated the incident in the same manner as narrated by the first informant Jayashree. As against these two witnesses, whose statements are also recorded u/s 164 of Cr.P.C. there are other important witnesses. Sukhdev Mane has stated that Namdev's younger son Kisan had come to their house and told this witness that Shankar had consumed poison and after some time, he again came to their house and told this witness that even Namdev had consumed poison. Thereafter this witness had gone to the house of the deceased. This witness does indicate that it was the case of victims themselves consuming poison.
11. There are statements of witnesses like Kalyan

Shembade, Machchindra Masal etc. They have stated that Shankar was under depression since his wife had left him. There is another set of witnesses like Appa Lavate, Balu Mane, Rangnath Mane etc. who have stated that the Applicants were their neighbours and since 10 p.m. both the Applicants had gone to their own house. These witnesses were the neighbours and they had not seen them leaving their house. These witnesses were sitting outside their house till 01.00 a.m. in the night. These witnesses have given alibi to the present Applicants. These statements are included in the charge-sheet. All these statements do make prosecution story against the present Applicants extremely doubtful. Therefore the Applicants deserve to be released on bail.

12. Hence, the following order :

ORDER

- (i) In connection with C.R.No.771/2020 registered with Mohol Police Station,

Solapur, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)