

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1634 OF 2022

AKASH VILAS INGOLE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. D. S. Ingole h/f. Mr. N. S. Ghanekar
APP for Respondent : Mr. S. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 02-12-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. The applicants have a case that since the deceased was habituated to outraging the modesty of women, many offences were registered against him. He had a grudge against the applicants. No incident as such happened at the cause of the applicants. The cause of the death opined by the Medical Officer appears doubtful, for the reason that there were contusion abrasion over right elbow, fracture upper 1/3rd right ulna, right wrist and left knee and ankle. The eye witnesses also appears planted. Their statements that they saw the incident in the electric light, had been damaged by the statement of the father of the deceased recorded under Section 164 of the Code of Criminal

Procedure, that the assailant switched off the light. The statement of the mother also made the prosecution case weak as she has stated that at the relevant time they were slept. Only due to the enmity, the applicants have been arraigned as an accused. They are languishing in jail for more than nine months. At the relevant time, the deceased was extorted. He had many enemies. None of the injuries was found on the vital part of the body. The evidence collected against them is doubtful. There were no antecedents to their discredit. Applicant No.1 - Aakash is 20 years boy and a student. Applicant No.2 - Kailas has family responsibility. Hence, they may be released on bail.

3. The learned A.P.P. has strongly opposed the application. He would refer to the statement of the injured father and other eye witnesses and argued that there is a strong evidence against the applicants. The applicants have mercilessly assaulted the deceased with deadly weapon like stick and caused him the injuries whereby he died. The offence is serious. The possibility of tampering with the prosecution witnesses cannot be ruled out. The chargesheet has been filed. So, there are chances of opening the trial.

4. Perused the chargesheet.

5. The learned counsel for the applicants has pointed out the contradiction in the statement of Parasram Jayram Ingole, father of

the deceased and injured. At one time, he stated that he saw all the accused in electric light and in a statement before the Magistrate, he has made a contradictory statement. His statement has also affected the other eyewitnesses, who have stated before the police that they saw the incident in the electric light.

Whether the death may be caused due to the injuries as pointed out by the Medical Officer in the post-mortem report, is also a question of fact, for the reason that those injuries are not on the vital part of the body of the deceased. The character of the deceased was not good. Number of cases of outraging the modesty of women are pending against him. In the meantime, he was externed.

6. Considering the material collected by the Investigating Officer cumulatively, there appears substance in the arguments of the learned counsel for the applicants that they may be involved due to the enmity. The investigation has been completed. There are no antecedents to the discredit of the applicants. Though the chargesheets have been filed, but the trial may take its own time.

Applicant No.1 Aakash is a student and applicant No.2 - Kailas is a person having family responsibilities. The apprehension of the prosecution of tampering with the prosecution witnesses may be guarded by imposing certain conditions.

7. Considering the material placed before the court, there appears *prima facie* good case for bail. Hence, the following order :-

- i) The application is allowed.
- ii) Applicant No.1 - Akash s/o. Vilas Ingole and applicant No.2 - Kailas s/o. Namdeo Ingole, be released on bail, on furnishing PB and SB of Rs.25,000/- each, with one solvent surety each of the like amount, in C.R.No.67 of 2022 registered with Goregaon Police Station, Taluka Sengaoon, District Hingoli, for the offence punishable under Sections 302, 324, 143, 147, 148, 149, 448, 504 of the Indian Penal Code, on the conditions that they shall not tamper with the prosecution witnesses and not meet the parents of the deceased and other so-called eye witnesses to the incident.

(S. G. MEHARE)
JUDGE

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