

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

**909 BAIL APPLICATION NO.1644 OF 2021
WITH APPLN/465/2022**

1. JAGANNATH VISHAMBHAR ONAME
2. RAJKUMAR VISHAMBHAR ONAME
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. More P. P.
APP for Respondents/State : Mr. V.S. Badakh
Advocate for Informant (Appln/465/22): Ms. Mhase h/f. Ashwini Mate

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**CORAM : M.G. SEWLIKAR, J.
DATE : 1st March, 2022**

PC:-

This is an application under Section 439 of the Cr.PC. for releasing the applicants on bail in connection with Crime No.0150/2019 registered with Shirpur Anantpal Police Station, Tq. Nilanga, Dist. Latur, for the offences punishable under Section 143, 147, 148, 149, 302, 307, 504 of the I.P.C. and under Section 135 of Bombay Police Act.

2. Facts in nutshell are that a civil suit is pending between the informant party and the accused. Informant Namdeo Sude, his father Subhash Sude, grand father Dayanand Sude, uncle Sanjay and Balaji Sude, grand father Dnyanoba Sude were grazing the cattle. At that time, accused

Dnyanoba Oname, Jagannath Oname, Rajkumar Oname, Dinanath Oname, Pralhad Oname, Balaji Oname, Uddhav Oname, Satyawar Oname, Kushabai Oname and other accused went there with sticks, axes and sickles and assaulted the informant and others as they wanted the informant to withdraw the civil suit and police complaint. Informant was assaulted by Dnyanoba by means of an axe on his head. Informant fell unconscious. When he regained consciousness, he found that his father Subash Oname was seriously injured. Informant and his father were shifted to the hospital. His father died in the hospital. On his report, offence came to be registered under the aforesaid sections.

3. Heard Shri More learned counsel for the applicants, Shri Badakh learned APP for the State and Ms. Mhase learned counsel for the informant assisting the APP.

4. Learned counsel Shri More submits that in the FIR the informant has stated that he sustained injury on head and fell unconscious. After lapse of 14 days, supplementary statement of the informant came to be recorded in which he gave the detailed account of the incident. According to Shri More, when the informant was unconscious, it is incomprehensible that the informant would have been able to see the incident. He further submits that parties are on inimical terms with each other. The applicants were the persons

first to go to the police station. They lodged the report first. He further submits that the FIR in the case at hand has been lodged belatedly, this is also a circumstance which goes against the prosecution. He further submits that the statement of witnesses are identical. They have given a parrot like version. This shows the falsity in the case of prosecution. He submits that because of the enmity, all the members of the family of the applicants have been roped in in this crime. He, therefore, seeks release of the applicants on bail.

5. On perusal of the charge-sheet, it is seen that deceased had 27 injuries. The Medical Officer has opined the cause of death as hemorrhagic shock due to multiple injuries. Out of these 26 injuries, two injuries are surgical sutured injuries, one is punctured wound and another is incised wound. There is linear undisplaced fracture of rib. So far as submission regarding the delay in recording the supplementary statement is concerned this aspect can be dealt with by the trial Court during the trial. At this *prima facie* stage only on this ground his statement cannot be brushed aside. Admittedly, counter FIR is filed by the applicant-party. Learned counsel Shri More admits that none of the members of the family of the applicants sustained either any grievous injury or there was any casualty in their family during the incident. During the incident, two persons had to loose their lives.

Gravity of the offence, seriousness of the allegations, role of the applicants, whether applicants will be available for trial and whether there is likelihood of the applicants fleeing from justice are the relevant consideration for bail. Considering the gravity and seriousness of the offence and the manner in which it was committed, I am not inclined to release the applicants on bail. In this view of the matter, the following order is passed:

ORDER

- I) Application is dismissed.
- II) Application for assist to APP is also disposed of.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]