

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1560 OF 2023
WITH CRIMINAL APPLICATION NO. 3763/2023

1. Sharad Bhaskar Bhondve @ Jagtap
2. Shaukat Saudu @ Syedbhai Mulani
@ Mulane

...Applicants

Versus

The Superintendent of Police,
Ahmednagar and Another

...Respondents

Mr. R. R. Karpe, Advocate for the Applicants.

Mr. S. P. Sonpawale, APP for Respondents.

Mr. A. B. Chormal, Advocate for informant to assist
APP.

CORAM : R.M. JOSHI, J.

DATE : OCTOBER 23, 2023

PER COURT:

1. Applicants apprehend arrest in connection with Crime No. 164 of 2023 registered with Kharda Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 341, 504, 506 read with Section 34 of the Indian Penal Code.

2. First informant Rekha reported to the police by stating that her son Ganesh is member of Grampanchayat. According to her, there was dispute between the Sarpanch Sharad and son of the informant

for the reason that in spite of completion of one year as Sarpanch, Ganesh did not resign. She stated that on 30.06.2023 at about 10.00 am Ganesh went to Grampanchayat Office for monthly meeting. At about 03.45 pm he came back home and was lying on the sand in front of the house. When she questioned him about the same, he stated that he has headache. He further told her that in the meeting of Grampanchayat there was quarrel with Sharad. It is alleged that at around 14.45 pm when Ganesh was coming back home on his motorcycle, Applicants obstructed him. They abused and threatened him. It is alleged that Shaukat caught hold of Ganesh and slapped him below his ear and Sharad assaulted him on his head with his hands. It is stated that Jalindar Bhondve saw the said quarrel and intervened therein. Ganesh was lying therein for about 15-20 minutes. He thereafter omitted. Ganesh was taken to Dr. Katrajkar who offered primary treatment and thereafter, he was taken to Sai Baba Hospital. On 02.07.2023 at about 08.48 am Ganesh died in the hospital. The cause of death of Ganesh was intracranial bleed. Thus, it is alleged that due to assault caused by the Applicants, Ganesh died.

3. Learned Counsel for the Applicants submits that though alleged incident has occurred on 30.06.2023 and Ganesh died on 02.07.2023 report in respect of said incident was lodged on 25.08.2023. It is submitted that owing to the political rivalry, advantage was sought to be taken by unfortunate death of the Ganesh by falsely implicating Applicants in this crime. It is submitted that even for the sake of arguments it is accepted that Applicants with use of their hands caused assault on the deceased, by no stretch of imagination it can be said it is offence of murder.

4. Learned Counsel for informant and learned APP opposed the application by submitting that the statement of Jalinder clearly shows that on 30.06.2023 Ganesh was assaulted by Applicants. It is submitted that post mortem notes indicate causing of surface injuries as recorded in column no. 17 of report. It is submitted that the cause of death is death due to intracranial bleed. It is thus, their submission that *prima facie* there is evidence to show that present Applicants are responsible for the death of deceased.

5. There is no dispute about the fact that the parties are at inimical terms. FIR itself indicates that there is political rivalry between them. The incident in question has occurred on 30.06.2023 whereas deceased died on 02.07.2023. The report of the said incident however lodged on 25.08.2023. There is no justification for not lodging immediate report in respect of death of son after the deceased has met with homicidal death. As far as the allegation of assault caused by the Applicants is concerned, though prosecution seeks to place reliance on the statement of Jalindar, however, his statement is recorded on 26.07.2023 i.e., after a period of 28 days from the date of occurrence of incident. Apart from this, perusal of the statement of Dr. Katrajkar shows that at about 04.30 to 05.30 pm Ganesh came along with two other persons to his hospital. He gave history to the Doctor that on the previous day he had kept fast and had ate sago and possibly he was suffering because of the same. Pertinently, no history was given to the Doctor of causing of assault by anyone on him. If he was assaulted on that day, it was obvious that such information ought to have been given to the doctor.

6. Having regard to these facts, liberty of the Applicants deserves to be protected. Application is allowed. Hence, the order:

O R D E R

- (i) In the event of arrest the Applicants in connection with Crime No. 164 of 2023 registered with Kharda Police Station, Dist. Ahmednagar for the offences punishable under Sections 302, 341, 504, 506 read with Section 34 of the Indian Penal Code, they shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one surety in the like amount.
- (ii) They shall attend the concerned police station as and when required.
- (iii) They shall not contact the witnesses directly or indirectly.
- (iv) They shall not interfere with the evidence in any manner whatsoever.
- (v) They are further directed to cooperate the investigating agency for further investigation.
- (vi) Pending application is also disposed of.

(R. M. JOSHI, J.)

Malani