

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.468 OF 2023

Rameshwar Ashok Bokse and others

Vs.

The State of Maharashtra, Through P.S.O., Amdapur, Tehsil Chikhli and District
Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. O. Ahmed, Advocate for applicants.
Mr. A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 16/06/2023

1. The present application is filed for bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.117/2023 registered with Police Station, Amdapur, for the offence punishable under Sections 306, 143, 147, 148, 149, 294, 323, 324, 506 read with Section 34 of the Indian Penal Code. The applicants are arrested on 15.04.2023.

2. The crime is registered on the basis of report lodged by one Ramesh Ananda Bokse on an allegation that deceased Kailash who is his son. On 05.04.2023 there was some religious function in the Hanuman Temple of the village. His daughter-in-law after attending the said function returned to the home and disclosed that applicant No.1 made a statement 'तुम्ही बोक्से

परीवाराच्या बायका काही चांगल्या वागत नाही तुम्ही एकदम मोकाट आहात' thereafter, the deceased and the informant consoled the wife of the deceased. On 10.04.2023 at about 7.00 p.m deceased inquired with Rameshwar Ashok Bokse regarding the statement made by him, at the relevant time, he was assaulted by fist and kick blows. Thereafter, on 11.04.2023 at about 7.30 a.m. Kailash was not returned at home and at about 8.00 a.m. Kailas returned at home in injured condition and disclosed that he was assaulted in front of the villagers by the present applicants and other co-accused and he felt humiliated. He immediately went back side of the house and consumed the poison. Though he was immediately removed to the hospital but he succumbed to the death. As per the allegations of the prosecution, deceased was committed suicide due to the abetment at the hands of the present applicants and other co-accused. On the basis of said report, police have registered the offence against the present applicants along with other co-accused. Some of the co-accused i.e. Mamta d/o Sitaram Bokse is already released on anticipatory bail.

3. As per contention of the present applicants they are agriculturists and residing in the same village with their family. It is submitted by them that there was previous disputes between the two families and due to the said previous disputes this false report is lodged against them. In fact, they are not at all responsible for

the death of the deceased Kailash. Now, investigation is completed and charge-sheet is filed. It is further contention of the applicants that deceased Kailash has consumed the poison for some other reason and due to the previous disputes the present applicants are implicated falsely. The offence of abetment is not made out as the ingredients of the offence in view of definition given under Section 107 of Indian Penal Code are not made out.

4. The said application is strongly opposed by the State on the ground that there is *prima facie* material against the present applicants to show that due to their abetment deceased Kailash has committed suicide. Though investigation is completed, but if applications are released on bail, they will tamper with the prosecution evidence and will not be available for trial and prayed for rejection of the application.

5. Heard learned Counsel Shri S. O. Ahmed for the applicants. He reiterated the contentions and submitted that the investigation is completed and charge-sheet is also filed. Now, further custody of the applicants are not required. The incriminating articles are already recovered. Considering the nature of the offence which is not punishable with life imprisonment or death. The present applicants be released on bail.

6. The learned APP reiterated the contention and submitted that if applicants/accused are released on bail there is every likelihood that they will tamper with the prosecution evidence.

7. Having heard both sides and perused the investigation papers. The recitals of the FIR shows that as deceased was assaulted by the present applicants/accused and other co-accused, he felt humiliated and he committed the suicide by consuming the poison. Learned APP submitted that the investigation is completed and charge-sheet is filed. Considering the nature of the allegation further custody of the present applicants, are not required. General grounds are raised by the State that if applicants/accused are released on bail, they will tamper with the prosecution evidence. After perusal of the investigation papers, further custody is not required and hence application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

(i) Application is allowed.

(ii) Applicants (1) Rameshwar Ashok Bokse, (2) Gajanan Santosh Bokse and (3) Raju Shrikisan Bokse are released on bail in connection with Crime No.117/2023 for the offence punishable under Sections 306, 143, 147, 148, 149, 294, 323, 324 and 506

read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.15,000/- each with one solvent surety of like amount.

(iii) The applicants shall not induce, tamper or pressurize any of the witnesses who are connected the alleged offence.

(iv) The applicants shall attend each and every date before the trial Court.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate