



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

951 BAIL APPLICATION NO. 2363 OF 2023

1. Vishnu Shrirang Shelke.
 2. Krushna Shrirang Shelke.
- ... Applicants

Versus

The State of Maharashtra.

... Respondents

...
Mr. Sudarshan J. Salunke, Advocate for Applicants.
Mr. Mukesh K. Goyanka, APP for Respondent/State.

...

CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 09th January, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.86 of 2017 registered at Ambad Police Station, District Jalna for the offences punishable under Sections 302, 504 and 506 read with 34 of the Indian Penal Code.

3 The report was lodged by Mangalbai Pandurang Mulak, daughter-in-law of deceased Uttam aged 70 years. It is averred that

on 3rd May, 2017 when Uttam was in the agricultural land, accused came there and forcibly poured poison in the mouth of Uttam. They assaulted the informant and other witnesses. Uttam was admitted in the hospital but died on 8th May, 2017. The FIR was lodged on 9th May, 2017 against the applicants and other accused. The applicants were arrested on 10th August, 2023.

4 After completion of investigation, 'A' summary report was filed. However, the learned Judicial Magistrate First Class, Ambad rejected it by order dated 18th October, 2022. Thereafter, supplementary charge-sheet was submitted on 7th June, 2023.

5 The learned counsel for applicants submitted that there is inordinate delay for lodging the report. 'A' summary report discloses the contradictory statements of witnesses and story of the prosecution. The co-accused is released on bail. The applicants have roots in the society. They will not flee away from trial. He lastly prayed to allow the application.

6 The learned APP for the State strongly opposed the application. He pointed out the statements of witnesses and also the order passed by the learned Judicial Magistrate First Class, Ambad rejecting 'A' summary report with reasons.

7 Perused the charge-sheet. The statements of witnesses show that on 3rd May, 2017 the applicants and other accused went in the agricultural land and in the presence of the informant and other witnesses, forcibly administered poison to deceased Uttam, but the report was not lodged on 3rd May, 2017. The report was lodged on 9th May, 2017. The delay caused for lodging the report is not explained. 'A' summary report also discloses contradictory statements of witnesses, which unearth the prosecution case. However, the learned Magistrate rejected 'A' summary report. The reasons given while rejecting 'A' summary report are not cogent and acceptable. Considering the background of this crime and the papers of investigation, it does not inspire *prima-facie* confidence that the applicants might have administered poison to deceased Uttam. It is because the delay is not explained, the allegations are, therefore, *prima-facie* not natural. Considering all these aspects, it would be proper to regular bail to the applicants on the ground of parity as well as on merits. The application, therefore, deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicants in connection with Crime No.86 of 2017 registered at Ambad Police Station, District Jalna for the

offences punishable under Sections 302, 504 and 506 read with 34 of the Indian Penal Code, be released on bail on furnishing personal bond of Rs.25,000/- each with surety of the like amount on following conditions:-

- a) The applicants shall not pressurize the witnesses.
- b) The applicants shall not tamper with the prosecution evidence in any manner.

[SANJAY A. DESHMUKH, J.]

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