



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2112 OF 2024

1. Nanabhau @ Nana Maruti Gade
Age : 50 years, Occ.: Agriculture

2. Raju @ Rajendra Maruti Gade
Age : 45 years, Occ.: Agriculture,

Both R/o. Kharwadi Pimpalner,
Taluka Parner, District Ahmednagar. ... Applicants.

Versus

The State of Maharashtra
Through Parner Police Station,
Taluka Parner, District Ahmednagar. ... Respondent

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Ms. Suvarna Zawaare, Advocate h/f Mr. Sanjay B. Dushing, Advocate
for the Applicant.
Mr. V. M. Jaware, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Date : 13 JANUARY 2025

ORDER :

1. Both applicants seek their enlargement on regular bail on account of their arrest in crime no. 0726 of 2024 registered at Parner Police Station, District Ahmednagar for offence under Sections 105, 106, 115(2), 126(2) and 3(5) of the Bhartiya Nyaya Sanhita [BNS].

2. Learned counsel pointed out that applicants are arrested on 12.10.2024 in above crime and since then are behind bars. According to learned counsel, implication is out of annoyance as well as civil dispute over right to way. There are allegations that, informant who was taking his sick son, was obstructed. That, it is stated in the FIR that, because of reaching hospital late, applicant's son could not survive. However, according to learned counsel, said son was already a patient of heart ailment. Applicants cannot be held responsible and according to learned counsel, there is nothing to show that only because of delayed admission, child was deprived of timely treatment. That, on above crime, FIR has been registered. She further pointed out that in fact, there is counter FIR from present applicants' side. Applicants are behind bars since long. Nothing is shown to be recovered or discovered at their instance, and hence, according to her, there is no need for further custody and detention. Hence, she urges for grant of regular bail.

3. While opposing the above application, learned APP pointed out that informant's son was critical and needed immediate medical treatment. The way of informant, while taking such sick child, was obstructed and there was prevention and obstruction for one hour, as a result of which, child could not be taken to the hospital in spite of

there being emergency. That, unfortunately child succumbed. That, only because of intervention and obstruction, child could not get timely treatment. Therefore, above crime has been registered. According to learned APP, investigation is still incomplete and for above reasons, he opposes the relief of regular bail.

4. Heard. Perused the papers including FIR dated 12.10.2024. It transpires that one Ramesh Jambe had 17 years old differently abled son and was reported to be unwell since two days. It is reported that, on 12.10.2024 around 11.30 a.m., health condition of the child had deteriorated and he was finding it difficult to breath and therefore, he was tried to be shifted in a vehicle of one Bharat Kashinath Hajare, i.e. to the hospital. However, according to informant, the road was found to be obstructed by use of wooden logs. When the obstruction was attempted to be removed, it is alleged that Nana Maruti Gade (present applicant no.1), Raju Maruti Gade (present applicant no.2) and Anjana and Sujata Gade abused and prevented removal of wooden logs. Informant claims that in spite of request being made that their son needed emergent medical treatment, said request was not considered and rather, abuses were hurled and vehicle was not allowed to proceed ahead. On intervention of others, vehicle was later on allowed to pass, but when they reached hospital, the child was

declared to be dead. Hence, on above report, offence is registered for Sections 105, 106, 115(2), 126(2) and 3(5) of BNS at Parner Police Station.

5. Thus, on hearing submissions and on going through the FIR, it transpires that there is pending dispute over right of way. On 12.10.2024, informant was shifting his sick son in a vehicle to the hospital, but way was found to be obstructed by use of wooden logs and later on, there was prevention of passage for vehicle. Informant claims that in spite of request to impress emergency situation, there was prevention of vehicle and though later on, on intervention of others, vehicle was allowed to pass, it is stated that, the child was examined at hospital and declared brought dead. Thus, this is an unfortunate incident and the informant, who resided at Kharwadi Pimpalner, Taluka Parner, could not reach hospital located at Shirur. Informant claims that vehicle carrying the sick child was held up approximately for half an hour. However, there are no medical papers showing that, as child did not get timely treatment, he succumbed to death. *Prima facie*, FIR itself shows that around 11.30 a.m., child was experiencing breathlessness and was heavily perspiring and was therefore tried to be taken to hospital, but he could not make it. Taking such above allegations into consideration, and applicants to be

behind bars since October 2024 and when nothing is shown to be recovered or discovered at their instance, and more particularly there being no plausible reason for further detention, relief as prayed deserves to be granted. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicants Nanabhau @ Nana Maruti Gade and Raju @ Rajendra Maruti Gade, be released on bail in connection with Crime No. 0726 of 2024 registered at Parner Police Station, District Ahmednagar, on executing Personal Bond of Rs. 15,000/- each, with one surety each, in the like amount.
- III. The applicants shall not tamper prosecution evidence.
- IV. The applicants shall not enter village Kharwadi Pimpalner, Taluka Parner, District Ahmednagar till conclusion of trial.

[ABHAY S. WAGHWASE, J.]

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