



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 873 OF 2024

1. Ashok Lakha Koli
Age 52 years, Occupation Agril.
2. Sagar Ashok Koli
Age : 22 years, Occupation Education,
R/o: Mandal, Taluka Amalner
District Jalgaon. ... Applicants

Versus

The State of Maharashtra
At the instance of Marwad
Police Station, Jalgaon. ... Respondent

**WITH
CRIMINAL APPLICATION NO. 2315 OF 2024
IN BAIL APPLICATION NO. 873 OF 2024**

Shubhangi wd/o Jaywant Koli
Age : 28 yrs., Occupation : Agriculture,
Residing at Mandal, Taluka : Amalner,
District : Jalgaon. ... Applicant
[First informant-victim]

Versus

1. Ashok s/o Lakha Koli
Age : 53 yrs., Occupation : Business,
Residing at Mandal, Taluka : Amalner,
District : Jalgaon.
2. Sagar s/o Ashok Koli
Age : 23 yrs., Occupation : Business,
Residing at Mandal, Taluka : Amalner,
District : Jalgaon.
3. State of Maharashtra,
through The Police Station Officer,
Marwad Police Station,
Taluka : Amalner, District Jalgaon. ... Respondents

**WITH
BAIL APPLICATION NO. 874 OF 2024**

Rushikesh @ Dadu Rajendra Koli
Age : 19 years, Occupation : Labour,
R/o: Mandal, Taluka Amalner
District Jalgaon. ... Applicant

Versus

The State of Maharashtra
At the instance of Marwad
Police Station, Jalgaon. ... Respondent

**WITH
BAIL APPLICATION NO. 875 OF 2024**

Vishal Ashok Koli
Age : 24 years, Occupation : Business,
R/o: Mandal, Taluka Amalner
District Jalgaon. ... Applicant

Versus

The State of Maharashtra
At the instance of Marwad
Police Station, Jalgaon. ... Respondent

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Mr. Abhaysinh K. Bhosle, Advocate for the Applicants in all Bail Applications.
Mr. S. B. Narwade, APP for Respondent-State in all applications.
Mr. Hemant Surve, Advocate for the Applicant in Criminal Application No. 2315 of 2024.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 29.04.2025

Pronounced on : 30.04.2025

ORDER :

1. Criminal Application No. 2315 of 2024 is at the instance of original informant, thereby seeking permission to assist learned APP in opposing Bail Application No. 873 of 2024. For the reasons mentioned in the application, the applicant-original informant is permitted to assist learned APP. Criminal Application No. 2315 of 2024 is accordingly disposed off.

2. Applicants in all three bail applications are seeking enlargement on regular bail on account of their arrest in crime no. 5 of 2023 registered at Marwad Police Station, District Jalgaon for offences punishable under Sections 302, 379, 201, 504, 506 r/w 34 of IPC.

3. Learned counsel Mr. Bhosle pointed out that applicants are arrested in above crime on 05.03.2023, 18.01.2023, 20.01.2023 and 06.02.2023 respectively. That, FIR is of 17.01.2023. There are allegations of committing murder of Jaywant Koli, but there is no direct eye witness. That, except Sagar, similar roles are attributed to other accused. He pointed out that two accused are beneficiaries of Section 169 Cr.P.C. Now, investigation is over and charge sheet is filed on 14.04.2023. That, after rejection of bail application of

applicant namely Ashok by this Court, Hon'ble Apex Court was approached and therein, there were directions to decide bail application on merits. Applicants are behind bars since more than two years. No purpose is further to be achieved by continued detention. That, future course of trial is uncertain as neither case is committed nor charge is framed. Therefore, learned counsel urges for grant of bail.

4. Learned APP opposed on the ground that serious offence has been committed. There is brutal murder of deceased merely for objecting use of way for illegal transportation of sand. Learned APP took this Court through the PM report and would submit that deceased died due to multiple injuries and cause of death is hemorrhage and shock due to injuries. Learned APP submits that role of present applicants cannot be equated with role of those accused who are granted bail, and as such, according to learned APP, ground of parity does not come into play.

5. Learned counsel for informant also opposed on the ground that there are criminal antecedents. Relief was refused by even Hon'ble Supreme Court. That, after present crime, two more crimes are committed by the applicants. There is brutal murder. Repeated threats

were issued. However, learned counsel submits that if at all this court is inclined to grant bail, then stringent conditions be imposed.

6. Perused the FIR at the instance of wife of deceased Jaywant, namely, Shubhangi, and she has reported police that, near their field, there is no path way, however, Ashok Lakha Koli and his sons and their associates commit theft of sand in the night and use the way for transporting it. That, on 11.01.2023, her husband Jaywant had obstructed Ashok, Vishal, Sagar, Vinod, Rohan and Pintu from using the way near their field for illegal transport of sand and as such, those persons were upset and annoyed with her husband. She reported that on 16.01.2023, her husband alone went to the field to water the crops and spend the night there. On 17.01.2023 neighbouring agriculturist Dhanraj informed her brother in law Nitin that Jaywant is lying injured and in motionless condition within the shrubs on bare undergarments. Therefore, they all went there and they found Jaywant to be lying injured with marks of being run over by tractor and was thereby taken to hospital and she lodged report against above six persons on 17.01.2023.

7. *Prima facie*, there is no eye witness. However, investigating machinery seems to have recorded statements of two eye witnesses

namely Yogesh and Sahebrao and they both have given statements, but as pointed out, the same are recorded on 21.03.2023 i.e. after three months and they both claim that Yogesh received phone call from deceased stating that he is keeping watch on above persons. It is stated by Yogesh that he and Sahebrao both went to the field of Jaywant and at that time around 1.30 to 2.00 p.m, in the light of tractor, they saw the incident and even allegedly overheard Ashok issuing directions to not to spare Jaywant alive and that time Sagar was armed with sped and he was assaulting Jaywant with the same. Vishal, Vinod, Rushikesh and Ashok were also assaulting deceased. However, as stated above, there is delay in recording statements of alleged eye witnesses, of which there is no explanation.

8. Learned counsel has precisely relied on the order of Hon'ble Apex Court in Petition(s) for Special Leave to Appeal (Crl.) No(s). 3037/2024 dated 09.05.2024, copy of which is placed on record and the same shows that the Hon'ble Apex Court granted bail to Vinod Koli. Therefore, when investigation is over and charge sheet is filed long back, i.e. on April 2023 and when there are no immediate prospects of commencement or conclusion of trial, even present applicants too deserve to be released on the ground of parity. Hence, I proceed to pass the following order:

ORDER

- I. All three bail applications are allowed.
- II. Applicants be released on bail in connection with Crime No. 5 of 2023 registered at Marwad Police Station, District Jalgaon, on executing Personal Bond of Rs. 15,000/- each, with one surety by each in the like amount, on the following conditions:
- [a] The applicants shall not tamper prosecution evidence.
- [b] The applicants shall not enter village Mandal, Taluka Amalner, District Jalgaon till conclusion of trial.
- [c] The applicant shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
- [d] The applicant shall attend the concerned police station twice in every week i.e. on every Thursday and Monday till framing of charge and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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