

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5195 OF 2024

1. Jayprakash Umashankar Goud
2. Nagesh Manik Ingle

Applicants

.. (Org. Accused Nos. 2 & 3)

Versus

The State of Maharashtra

.. Respondent

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- Mr. Amrish Salunke a/w Ms. Muskan Mansuri, Mr. Durgesh R. Pandey & Ms. Shraddha Shinde for Applicants
- Mr. Hitendra J. Dedhia, APP for State
- Mr. Sandesh Tambe, PSI, Rabale MIDC Police Station, Navi Mumbai is present

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 28, 2025

P. C.:

1. Heard Mr. Salunke, learned Advocate for Applicants and Mr. Dedhia, learned APP for State.

2. Applicants - accused Nos. 2 & 3 have filed the present Application for regular bail under Section 439 of the Criminal Procedure Code, 1973 (for short, "**Cr.PC.**") in connection with Crime No. 218/2024 registered with Rabale MIDC Police Station under Sections 302, 364 and 34 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. Complainant is one Shivchandar Rajnath Singh and name of the victim is one Thakur. Briefly stated according to the prosecution, Thakur was working in a *tabela* (stable) of the First Informant /

complainant. Umashankar was known to complainant and 6-7 days prior to the date of the incident, he had visited the stable of the complainant to inquire about the theft of three cows from his stable as the suspect being one Mr. Thakur who was employed by the complainant. At that time complainant informed him that he would inquire and let him know. Accused No. 1 thereafter left and after about seven days once again arrived at the stable of the complainant and this time he had 2-3 persons with him as stated in the complaint. He inquired for Thakur on the date of the incident i.e. 15.05.2024 and when Thakur presented himself, he forced Thakur to accompany him in an auto-rickshaw which belong to accused No. 1 and took him away. Thereafter in the course of the day, accused No. 1 gave a phone call to the complainant at about 3:00 p.m. in the evening and informed him that he has beaten Thakur for not disclosing about the theft of his three cows as he was the prime suspect and he had taught him a lesson and left him at complainant's stable. At that time complainant informed him that after he would reach his stable, he would persuade Thakur to disclose the details of the stolen cows if he had taken them and also their whereabouts if possible and persuaded the accused No. 1 not to beat him much. When the complainant reached home in the evening on the date of the incident, he saw

Thakur lying on the ground. He was taken to hospital but was declared dead on admission.

4. Mr. Dedhia, learned APP would draw my attention to the FIR and would submit that in so far as the victim is concerned, he has been beaten mercilessly by the accused. However in his usual fairness, he would point out that FIR does not name the Applicants before the Court. He would submit that in so far as the Applicant No. 2 is concerned, he was the driver of the rickshaw which was driven upto the stable on the date of the incident for taking over Thakur by accused No. 1.

5. The record of the case *prima facie* shows that accused No. 3 is the driver of the rickshaw and in fact he was employed with accused No. 1. That apart the two accomplices stated in the FIR who had accompanied accused No.1 have not been identified as prosecution has not conducted the test identification parade (TIP). Arrest of accused Nos. 2 and 3 *prima facie* seen from the record placed before me is on the basis of apprehension. Applicant No. 1 i.e. Accused No. 2 is the son of Accused No. 1. However, there is nothing which has been placed on record to show that Applicants before me participated in commission of the crime *prima facie*. In so far as accused No. 1 is concerned, his role is clearly enumerated. Applicants' role has not

been identified as also the Applicants not having been identified, both Applicants are entitled to be enlarged on bail.

6. In view of the above, present Application is allowed in terms of prayer clause (b) subject to the following terms and conditions:-

- (i) Both Applicants are directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- each (Rs. Fifteen Thousand only) with one or two sureties in the like amount;
- (ii) Applicants shall report to the Investigating Officer of concerned Police Station once in every month on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter as and when called;
- (iii) Applicants shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if they do so, it will entitle the prosecution to apply for cancellation of this order;
- (iv) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (v) Applicants shall not influence with any of the witnesses or tamper with the evidence in any manner;

(vi) Applicants shall keep the Investigating Officer informed of their current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;

(vii) Any infraction of the above conditions shall entail cancellation of this order.

7. In view of the above directions, Bail Application stands allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

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