

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**  
**CRIMINAL APPLICATION NO.543/2009**  
**(Nilkanth Hattimare vs. State of Mah..)**

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

Court's or Judge's orders

**CORAM : S.R.DONGAONKAR, J.**  
**DATE : 30<sup>th</sup> April, 2009**  
**CRIMINAL APPLICATION NO.961/2009**

Heard Shri Charlewar, Advocate for applicants and Shri Mandpe, A. P. P. for state.

Presently office objection dispensed with regarding filing of type copy of F. I. R. Application stands disposed of.

CRIMINAL APPLICATION NO.543/2009:

Heard Shri Charlewar, advocate for the applicants and Shri Mandpe, A. P. P. for state.

This is an application under section 439 of Cr. P. C. for bail. Applicants are accused for the offence punishable under section 302, 201 of I. P. C. and section 3(1)(iv) of the S.C. & S. T. (Prevention of Atrocities) Act. The case against the applicant is that they had eliminated Chintaman Naik – husband of applicant no.2 by causing his murder by axe and beating and thereafter caused to disappear the evidence putting his dead body in bag and throwing it in the dam. There are other allegations also to support this case.

Learned counsel for the applicant has contended that there is no eye witness to the incident and alleged eye witness Sevakram is not trustworthy. According to him in earlier statement which was recorded on 21.7.2008, he does not disclose that he had seen the incident i.e. applicants' pulling deceased Chintaman Naik, applicant no.2 having axe and thereafter after they pulled Chintaman, he heard the shouting. He had suspected

that the applicants had killed him. According to him, this was improvement in supplementary statement which was made on 13.8.2008 and therefore. Evidence of Sevakram is not sufficiently cogent to attract conviction.

Learned A. P. P. has further submitted that the statement as regards Chintaman going to his house as he was informed by the son Rajesh and Dilip that their mother and applicant Nilkant were in the house of husband of deceased Chintaman, can be believed. According to him, there are incriminating recoveries on the part of the applicants.

On careful perusal of the facts and circumstances of the case, it clearly appears that there can not be any difficulty in coming to the conclusion that the deceased Chintaman died homicidal death. Applicant had sufficient motive for committing the offence so also they had opportunity. Evidence of the children, particularly Nashikabai shows that there were illicit relations between applicant and deceased and at the relevant time they were at the home. There appears strong circumstantial evidence against applicants. In these circumstances, it would not be proper to release them on bail, at this stage, when the trial is likely to begin in near future. Hence the application is rejected.

However, liberty is granted to applicant to move for bail if the trial does not commence within 2 months from today. Learned trial Judge is directed to expedite the hearing of the trial. Application stands disposed of.

It is made clear that the observations made above are in prima facie view of the matter, and the same shall not influence the learned trial court, in any way, while deciding the matter on merits.

JUDGE

SMP