

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

916 CRIMINAL APPLICATION NO. 5246 OF 2016

**DIGAMBAR S/O RAMA ACHALKHAMBE
& ANR.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. V.B.Dhage, Advocate for Applicants.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 30th SEPTEMBER, 2016

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PER COURT :

1. The applicants/accused in Crime No. 55/2015 registered at Manatha police station, Dist. Nanded for the offence punishable u/s 302 read with 34 of the Indian Penal Code, by this application are praying for releasing them on bail after filing of the charge sheet.

2. Heard the learned counsel for applicants. He argued that no weapons are attributed to the present applicants in commission of the crime in question. The charge sheet does not show intention of the applicants to kill Raghoji. It is further argued that there is delay of 7 days in lodging the report which is unexplained and considering the

rivalry due to Gram Panchayat elections, possibility of false implication of the applicants in the crime in question can not be ruled out. He further argued that applicant No. 1 Digambar s/o Rama Achalkhambe is senior citizen, more than 65 years of age and, therefore, he is entitled for bail.

3. The learned A.P.P. opposed the application by contending that the crime in question is serious and apart from eye witnesses account, there is evidence of recovery of blood stained weapons at the instance of the applicants.

4. Perused the charge sheet. According to the prosecution case, because of the dispute regarding voting in the Gram Panchayat elections, on 26/11/2015 when Raghoji [since deceased] was sitting out side his house along with his wife Sarjabai, the present applicants and co-accused came in their front yard and started assaulting them. It is averred that applicant Digambar assaulted Raghoji by means of sickle whereas applicant Shivaji assaulted Raghoji by means of Katti – sharp edged weapon. This incident which took place at village Chinchalgaon was informed to Haridas, son of Raghoji [since deceased] telephonically. He then rushed to village Chinchalgaon from Pardi and saw his father Raghoji in injured condition. After asking him about the incident, informant Haridas took Raghoji to the hospital at Nanded. Raghoji succumbed to the injuries on 30/11/2015. The report of the incident in question came to be lodged on 01/12/2015 by Haridas.

5. Delay in lodging the F.I.R. can not be construed as a ritualistic formula to doubt version of the prosecution. This aspect has to be examined at the trial and that too after cross examination of the informant.

6. The report of the postmortem examination of Raghoji shows that he had suffered in-sized wounds, stab injury and abrasions. There was internal injuries on the dead body. The cause of death is septicemia because of stab injuries to the chest and abdomen. In the wake of injuries found on the dead body during autopsy, it can not be said that the deceased might have suffered injuries because of fall on the stones.

7. There are several eye witnesses to the incident in question apart from the widow of deceased. They consistently stated that Digambar assaulted deceased by means of sickle whereas applicant Shivaji assaulted Raghoji by means of Katti. Seat of injury and weapon of offence *prima facie* discloses the offences.

8. The offence is punishable with death sentence or life imprisonment. No case for bail is made out.

9. The Criminal Application stands rejected.

[A.M.BADAR, J.]