

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.482 OF 2015

Sudhakar Agatrao Furde ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.H.V. Nimbalkar i/b S.H. Nimbalkar for the Applicant
Mr.S.S. Pednekar, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 23, 2015**

P.C.:

1. The application is moved for bail as the applicant/accused is facing charges under sections 302, 452, 323 r/w 34 of the Indian Penal Code. The crime is registered at C.R. No.111 of 2014 at Pangari police station, Solapur. The case of the prosecution is that there was some dispute on a trivial issue between the family members of the deceased Navale and the applicant/accused i.e., Furde family. The incident of assault had taken place 8 days prior to 29.8.2014. However, the applicant-accused alongwith his two sons appeared at the house of the deceased on 29.8.2014 at around 6.30pm. They all questioned as to the whereabouts of Vishal and the applicant/accused gave a blow on the person of the deceased Abasaheb Navale. The other two co-accused, who are the sons of the applicant/accused, also gave blows with wooden stick on the person

of the deceased. The co-accused Mahadev assaulted the informant Ashabai, who is the wife of the deceased. Her son Rahul was also assaulted by Mahadev. The son of the applicant/accused too got injured. They were admitted to the hospital. However, Abasaheb succumbed to the injuries at 8 pm on the same day. Hence, the offence was registered against the applicant/accused and his two sons. The applicant/accused was arrested on 30.8.2014. Hence, this application.

2. The learned Counsel for the applicant/accused has submitted that in the FIR of Ashabai, she has stated that the applicant/accused gave blows of wooden stick on the legs of her husband and thereafter the two sons of the applicant/accused assaulted the deceased on his head. He submitted that the other 2 witnesses have said that the applicant assaulted the deceased on his head. He argued that this Court by its order dated 21.1.2015 has granted bail to the co-accused, Shankar and Mahadev, who in fact, as per the FIR, have mounted blows on the head of Abasaheb, the deceased. He, therefore, prays for bail on the ground of parity.

3. The learned Prosecutor has opposed the bail application. He relies on the post mortem notes and the cause of death due to haemorrhage on the vital organ – brain. On perusal of the FIR and the statements of the two eye witnesses, Lahu Navale and Dattatraya Markad, it is found that there is a discrepancy in the role attributed to the present

applicant/accused. As per the informant, he assaulted on the legs of the deceased and as per the other two eye witnesses, the applicant/accused first mounted blow on the head of the deceased and the deceased collapsed. On perusal of the order granting bail to the co-accused by this Court, I found that in para 3, this Court has referred to the statements of the two eye witnesses – Lahu and Dattatraya and has mentioned that they have stated that the applicant/accused questioned Abasaheb as to the whereabouts of Vishal and suddenly mounted blow with wooden log on his head. The post mortem notes disclose one contused lacerated wound on left temporal region measuring 2' x 2' x 1' as the cause of death which led to the internal damage to the brain and resulted to death. In para 4, this Court while releasing the other co-accused on bail, has observed that it cannot be presumed that those applicants had shared common intention with the principal accused No.1. Obviously, the principal accused No.1, that is the present applicant, if taken into custody, the doctrine of parity cannot be applied to the case of the present applicant. Therefore, at this stage, in the circumstances of the case, I am not inclined to grant bail.

4. Bail application is therefore rejected.

(MRS.MRIDULA BHATKAR, J.)