

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1359 OF 2015**

Arjun Tulsappa Vanjole

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Niranjan S. Mundargi i/b Mr. Satish K. Kumbhar for the Applicant

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
SATURDAY, 17TH OCTOBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 19 of 2015 registered with the Ajara Police Station, Kolhapur, for the alleged offences punishable under Sections 302, 326, 324, 323 and 504 r/w 34 of the Indian Penal Code.
3. The complainant is the cousin brother of the applicant. It appears from the complaint that there was a family dispute between the complainant's family and the deceased and others. It also appears that civil

proceedings were filed by the applicant's father with regard to an uncultivated plot of land, which was decided in favour of the father of the complainant. It is alleged in the complaint which is lodged by Shivaji Vanjole that even thereafter, the present applicant would trouble them with regard to the said land. He has alleged that the applicant was even warned on some occasions by the Panch of the village. The incident in question has taken place on 14th March, 2015 at about 6:00 p.m. According to the complainant, just before the incident at about 2:00 p.m., he and his brothers Janba Vanjole (deceased) and Baswant Vanjole were arranging the haystack in the field. It is alleged that at that time, the present applicant along with co-accused Govind Vanjole came there and started verbally abusing and threatening the complainant and his brothers, pursuant to which, the complainant and his brothers went to the Police Station and lodged a complaint. It is alleged that at about 6:00 p.m., when the complainant's brother Janba Vanjole (deceased) was standing on the side of the road, co-accused Sandip and Ramchandra came on a Pulsar motorcycle and gave a dash to the complainant's brother, Janba Vanjole (deceased), as a result of which, he fell down. It is alleged that the said two persons started assaulting Janba Vanjole (deceased) with fist and kick blows. It is alleged

that on hearing hue and cry, the family members came to the spot. It is alleged that the present applicant assaulted Janba with a wooden log on his head, as a result of which, he suffered a bleeding injury. It is, thereafter, alleged that the co-accused assaulted the complainant's son Santosh and niece Chhaya with wooden logs and other family members with fist and kick blows.

4. Learned Counsel for the applicant states that with respect to the same incident, there is a cross complaint lodged by Sandip Vanjole, which is registered vide C. R. No. 20 of 2015 with the Ajara Police Station. The offences alleged in the said C.R are under Sections 143, 147, 324, 323, 504, 427 r/w 34 of the Indian Penal Code. He submitted that the incident was not a pre-meditated one but had taken place on the spur of the moment and was an outcome of the free-fight between the parties. He submits that the post mortem report shows that the deceased died due to head injury. According to him, considering the nature of injury and the fact that the deceased died after almost 12 days after the incident, in all probability, the offence could not be under Section 302 of the IPC but would be a lesser offence.

5. Learned A.P.P opposed the bail application. He submitted that a perusal of the statements of the complainant and the eye-witnesses show, that as a complaint was lodged on the same day in connection with an incident which took place at 2:00 p.m as against the applicant and the co-accused, the applicant and the co-accused were enraged. He submitted that the cause of death is the 'head injury' and that the said injury was caused by the applicant when he assaulted the deceased with a wooden log.

6. Perused the papers. Investigation is complete and charge-sheet is filed. It appears that all the co-accused have been enlarged on bail, except the present applicant. It also appears that there is a cross case filed by co-accused Sandip Vanjole with respect to the same incident. The applicant has been attributed with a specific overt act, that he assaulted the deceased with a wooden log. However, it appears that the applicant was initially taken to the Rural Hospital, Nesari and thereafter to Hatarangi Rugnalaya, Gadhinglaj. He was then taken to Aster Adhar Rugnalaya, Kolhapur, from where, he was referred to KEM Hospital, Mumbai, where ultimately he succumbed to his injuries on 26th March, 2015.

7. Considering the aforesaid and the fact that the investigation is complete and charge-sheet is filed, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 12:00 noon till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to influence, intimidate or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

- (v) The applicant to cooperate with the conduct of the trial;
 - (vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.
8. The Application is allowed in the aforesaid terms and is accordingly disposed of.
9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.