

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2431 OF 2019

Rohit @ Pappu Ashok Janbhare

...Applicant

V/s

The State of Maharashtra

...Respondent

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Mr. Aniket Nikam i/b Vivek N. Arote, advocate for the Applicant.
Mr. S.H. Yadav, APP for State-Respondent.

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CORAM : PRAKASH D. NAIK, J.

DATE : 6th November 2019

PC :

1. The applicant is arrested in connection with C.R. No. 103 of 2019 registered with Karmala Police Station, Solapur under Sections 302, 324, 323, 504 r/w 34 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act. The applicant is arrested on 21st March 2019.

2. The FIR is lodged on 09/02/2019 by Sunita Umesh Bhosle wife of the deceased Umesh Bhosle. She has stated that her husband Umesh was a fisherman and by selling fish he earned his livelihood. On 05/02/2019, at about 10.00 p.m., when the family of the

deceased was in the house, at that time the Applicant and one Pappu Ashok Janbhare came to their house. They wanted to buy fish. That time the deceased did not have fish and therefore he refused. The Applicant and his friend got enraged. They took two stick which the deceased was using while walking. They assaulted the deceased on his head, back, ribs, hands, legs and stomach. They also assaulted him with kicks and fist blows. When the informant tried to intervene, she was also assaulted. Her sister-in-law Asha was asulted as Well. Thereafter the Applicant and his friend left the house. Since it was a night time and there were only ladies in the house, the deceased was not immediately taken for medical treatment. On the next day with the help of others, the deceased was taken to Jeur Government Dispensary. Doctor advised to take him to Rural Cottage Hospital at Karmala. There, the Doctor treated him and asked the informant to take the deceased home. While going home; on the way, the deceased fell unconscious. Therefore he was taken to Shah-Javalekar Hospital at Karmala. That time, the Doctor noticed that his health condition was precarious. While he was being treated, he died on 08/02/2019 at about 10.45 a.m. Thereafter this FIR was lodged.

3. The investigation was carried out and the charge-sheet was filed. The charge-sheet contains statement of sister Asha, children

Ishwar Umesh Bhosle and others. They have narrated the same incident as described by the first informant.

4. The co-accused has been granted bail by this Court vide order dated 30/09/2019 passed in Bail Application No. 2235 of 2019. From factual matrix of the present case, it is clear that the incident had occurred at spur of moment. The victim was assaulted by sticks lying at the place of incident. He had sustained four injuries. The cause of death was mentioned as “Death due to cardiorespiratory failure due to hemorrhagic shock due to massive bleeding in peritoneal cavity due to rupture of spleen i.e. shattered spleen.”

5. In the circumstances, it is debatable whether Section 302 of the Indian Penal Code can be attracted. The applicant is in custody since the date of arrest. The investigation is completed and the charge sheet is filed.

6. Hence, I pass following order.

:: ORDER ::

1. The applicant is directed to be released on bail in connection with C.R. No. 103 of 2019 registered with Karmala Police Station, Solapur on furnishing PR. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

2. The applicants shall report the concerned police station once in a month on first Saturday of the month between 10:00 a.m. to 12:00 p.m. till further order;
3. Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)