

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

**BAIL APPLICATION NO.3071 OF 2019**

Aba @ Bala Baban Dhale

.. Applicant

***Versus***

State of Maharashtra

.. Respondent

.....  
Mr. Kuldeep S. Patil, Advocate for the Applicant.  
Mr.H. J. Dedhia, APP for Respondent – State.  
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**CORAM : PRAKASH D. NAIK, J.**

**DATED : DECEMBER 19, 2019.**

**P.C. :**

The Applicant is seeking bail in connection with C.R.No.309 of 2018, registered with Baramati City Police Station, for the offences punishable under Sections 302, 143, 147, 148 and 149 of Indian Penal Code (“IPC”, for short).

2           It is alleged that on 29<sup>th</sup> June, 2018 at about 11:30 p.m., the son of informant left the house and went in the village. On 29<sup>th</sup> June, 2018 at about 00:30 hrs. informant heard noise of quarrel and went to Savtamali Square. He found that his son Akshay was pulled

down by Nana Devkate. Avinash Devkate assaulted him by wooden log. Dattu Gofne by iron pipe, Satyawar Gophane by iron pipe, Aaba Dhale by wooden log, Dada Devkate, Vikas Malgunde Yogesh Gofane, Pravin Gofane and 2 to 3 unknown persons assaulting by fist/kick blows. Informant intervened in the quarrel and tried to pacify the accused. However, he was assaulted by the accused. The injured had sustained injuries which resulted in his death. The First Information Report ("IPC", for short) was lodged by father of the deceased on 29<sup>th</sup> June, 2018. Statements of witnesses were recorded. Applicant and the other accused were arrested. On completing investigation, charge-sheet was filed.

3            Learned Advocate for the Applicant submitted that on account of assault by the deceased, the co-accused had registered an FIR against him. In the supplementary statement complainant has stated that applicant had assaulted by wooden log and vikas @ Nana, Yogesh, Pravin were assaulting by fist/kick blows. In subsequent statement exonerated Vikas Gofane and Raju Gofane. Subsequently, the informant has alleged that the Applicant was armed with wooden stick. It is also submitted that the co-accused who were attributed role of assaulting by fist and kick blows and stick were granted bail by this Court as well as by the Sessions Court. There are no criminal

antecedents against the Applicant. He is in custody since September 2018.

4            Learned APP submitted that the case of the Applicant can be distinguished from the other accused. The motive for assault is enmity. The Applicant was assaulted by the deceased in the past. The alleged incident had occurred due to enmity between the Applicant and the deceased. Specific role has been attributed to the Applicant. The case of the co-accused who have been granted bail can be distinguished.

5            I have perused the charge-sheet. In the FIR lodged by the father of deceased on 29<sup>th</sup> June, 2018, it is stated that the Applicant had assaulted by wooden log. Avinash @ Pappu Devkate was armed with wooden log, Dattu Gophane was holding iron pipe, Satyawar Gophane had assaulted deceased by iron pipe, Dada Devkate, Vikas @ Nana Malgunde, Yogesh Gophane and Pravin Gophane and two to three other persons assaulted the deceased. The complainant intervened and prayed for forgiving his son. However, the Applicant instigated others to assault him and he was assaulted. On account of previous quarrel, the complainant's son was assaulted by all the accused, who were armed with sticks, iron pipe. The others

assaulted by fist and kick blows. Supplementary statement of the complainant was recorded on 30<sup>th</sup> June, 2018, in which it was stated that Applicant assaulted by wooden log. The statement of the complainant was recorded under Section 164 of Cr.P.C., on 29<sup>th</sup> June, 2018. In the said statement, he stated that on 29<sup>th</sup> June, 2018, his son was murdered by Avinash @ Pappu Devkate, Vikas @ Nana Malgunde, Yogesh Gophane, Dattu Gophane, Satyawan Gophane, Raju Gophane and three others had assaulted his son by iron pipe and sticks resulting in fracture of his head. He intervened and had also sustained injuries. In the said statement, specific role has not been assigned to the accused. Statement of eye witness Deepak Dharme was recorded on 21<sup>st</sup> June, 2018. He stated that Dada Devkote assaulted Akshay by wooden log on his head. Avinash @ Pappu Devkate assaulted by wooden stick. Avinash assaulted by wooden stick, whereas Dattu Gophane, Satyavan Gophane assaulted by iron pipe. Aaba Dhale (applicant) had also assaulted by wooden stick and Dada Devkate as well as Vikas @ Nana Kisan Malgunde, Yogesh Gophane and Pravin Gophane assaulted by wooden sticks.

6           It is pertinent to note that Dada Devkate was granted bail by the Sessions Court, whereas Vikas @ Nana Malgunde granted bail by this Court. Yogesh Gophane also granted bail by the Sessions

Court. Learned APP pointed out the postmortem report and submitted that the deceased has sustained several injuries. The statement of Deepak Dharme is silent about part of body upon which the said accused had assaulted. Similarly, the order granting bail to Dada Devkate and others also indicate that they were granted bail considering the role assigned to them. Deepak Dharme in his statement under Section 164 of Cr.P.C. has stated that Dada Devkate assaulted on head of deceased by wooden stick. Dada Devkate is granted bail by Sessions Court by order dated 16<sup>th</sup> April, 2019. The person with similar role has been granted bail by this Court and by the Sessions Court. There are no criminal antecedents against the Applicant. Taking into consideration the aforesaid circumstances, bail can be granted to the Applicant on certain conditions.

7           Hence, I pass the following order:

**:: O R D E R ::**

- (i) Bail Application No.3071 of 2019 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with C.R.No.309 of 2018, registered with Baramati City Police Station, on his executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

- (iii) The Applicant shall report to Baramati City Police Station once in a week between 10:00 a.m. and 12:00 noon, till filing of the charge-sheet and thereafter once in a Month on first Saturday of the month between 10:00 a.m. and 12:00 noon, till further orders;
- (iv) The Applicant shall not tamper with the prosecution evidence;
- (v) Bail Application stands disposed of.

**(PRAKASH D. NAIK, J.)**