

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

BAIL APPLICATION NO.61 OF 2021

SHRIDHAR ROHIDAS AMBHORE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Ravindra Nirmal, Advocate for the applicant

Mr. S.B. Narwade, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 01st MARCH, 2021.

ORDER :

1 Present applicant has been arrested in connection with Crime No.363/2020 dated 25.11.2020 registered with Hatta Police Station, Tq. Basmat, Dist. Hingoli, for the offence punishable under Section 302, 504 read with Section 34 of the Indian Penal Code. Present application has been filed under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. Ravindra Nirmal for the applicant and learned APP Mr. S.B. Narwade for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 Perusal of the First Information Report would show that it has been lodged by one Vidhya Panjab Ambhore. She has contended that she resides with her husband, children and parent-in-laws. Her father-in-law Vyankatrao has agricultural land at Satephal. One Namdeorao Kundlik Ambhore is having agricultural land adjacent to the land of the informant and they have one common well. They take water from the said well by their turn. Her husband, mother-in-law and nephew had gone to field at about 8.00 a.m. on 22.11.2020 to water the wheat crop taken in their land. Her nephew came running and crying at about 12.30 p.m. and informed her that when they were watering the crop, at that time, Shridhar Rohidas Ambhore i.e. present applicant went there at about 12.00 p.m. and put off the water pump and told that it was the day to take water for their field as per the turn and how they can take the water by starting the motor pump. Thereupon there was altercation between him and the husband of the informant. Thereafter, husband of the informant called Namdeo Ambhore and gave the phone call to present applicant and made him to talk with Namdeorao. However, the present applicant did not talk on phone but gave threat and called accused Adinath Namdeo Ambhore. Adinath came along with stick. He abused husband of the informant and then gave a blow of the said stick on the head of Panjab i.e. husband of the informant, resulting in grievous injury. He became unconscious on the spot. Another nephew of the

informant and brother of deceased went to the field and found husband of the informant in unconscious state and then took him on motorcycle and thereafter in auto rickshaw to Basmat for medical treatment. He was then referred to Nanded. He was admitted in Yesubai Hospital, however, unfortunately he expired at about 8.30 p.m.. The FIR has been lodged on 25.11.2020.

4 Though it is tried to be contended that there is delay in lodging the FIR, yet, it can be seen that the informant has tried to explain the said delay, whether it is fatal to the prosecution story or not would be considered by the concerned Trial Court. We are concerned with the role, that is, attributed to the present applicant. Present applicant has stated to have abused and then called Adinath to the spot. It is to be noted that statements of witnesses have also been recorded, which are also on the same line. The blow has been given by Adinath, as he had come along with stick. Important point, that is, required to be considered, even at this prima facie stage, that the statement of Kanhaiyya and Laxmibai i.e. nephew and mother of the deceased would show that when the present applicant gave a phone call to Adinath and called him, they have not given, as to what was told by present applicant to Adinath. Whether the present applicant has told him to come along with stick, is a question. Therefore, whether the role, that is, attributed

to the present applicant can be covered under Section 302 read with Section 34 of the Indian Penal Code is also then required to be considered, which appears to be the crux of the matter, which would get definitely resolved only after the evidence is led. However, at this prima facie stage, only on that count he need not be asked to linger in jail. Charge sheet is yet to be filed and in respect of the role attributed to present applicant, substantial investigation appears to be over, and therefore, his further physical custody is not required. He deserves to be released on bail. Hence, following order.

ORDER

- 1 Application stands allowed.
- 2 Applicant Shridhar Rohidas Ambhore, who has been arrested, in connection with Crime No.363/2020 dated 25.11.2020 registered with Hatta Police Station, Tq. Basmat, Dist. Hingoli, for the offence punishable under Section 302, 504 read with Section 34 of the Indian Penal Code, be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only).
- 3 The applicant shall not tamper with the evidence of the prosecution, in any manner.
- 4 He shall not indulge in any criminal activity.

5 He shall attend the Hatta Police Station on every Monday and Thursday between 10.00 a.m. to 02.00 p.m. till filing of charge sheet.

6 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)

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