

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

19 BAIL APPLICATION NO.184 OF 2021

**GOKUL NAGU SHINDE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Bhosle Abhaysinh K.
APP for Respondents/State : Mr. S.P. Sonpawale
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 6th September, 2021**

ORDER:-

Heard.

2. Applicant has applied for releasing him on bail in connection with Crime No.148 of 2019 under Section 302, 307, 324, 143, 147, 148, 149, 504 and 506 of the I.P.C. registered with MIDC Paithan Police Station, District Aurangabad.

3. Allegations against the applicant are that informant Dattu Mali had a brother by the name of Santhosh Mali. Daughter of Santosh Mali by the name of Jyoti was married to Balu Nagu Shinde resident of village of the informant Dattu. The said Jyoti was subjected to ill-treatment by husband Balu and his parents on the count that she was deaf and dumb.

4. On 16.07.2021 at 7.00 pm the said Santosh Mali had sent his son Sagar Mali to bring back Jyoti for 3-4 days. After some time mother of informant-Dattu came to him running and told him that there was a fierce quarrel going on between Balu Sinda and Santosh Mali. Therefore, the informant Dattu Mali, his elder brother Ashok Mali went running to the house of Balu Sinda. After solving the quarrel informant Dattu Mali, his brother Ashok Mali and Santosh Malu were returning home. At that time applicant, his brother Namdeo Savant, Nagu Shinde, Balu Shinde, Akash Shinde and Ganesh Savant came there with sticks and axe. Applicant-Gokul Shinde and accused Namdeo were having axes, accused Nagu Shinde, Balu Shinde, Akash Shinde, Ganesh Savant were having sticks. Applicant delivered a blow of axe on the head of Santosh Mali. Accused Namdeo delivered a blow of axe on the shin of the informant Dattu Mali. The deceased Santosh Mali was shifted to the hospital. During treatment the deceased died.

5. Initially offence was registered under Section 307 of the I.P.C. Because of the death of the deceased Santosh Mali offence was converted into Section 302 of the I.P.C.

6. Heard Shri Bhosle learned counsel for the applicant and Shri Sonpawale learned APP for the State.

7. Shri Bhosle submitted that there was a free fight between the applicant party and the informant party. He submitted that the applicant party was also injured and was hospitalised for three days. These facts are suppressed by the prosecution. He submitted that the applicant had also filed FIR against the informant Dattu Mali. He has produced medical certificates indicating that the accused party was also injured. The spot of the incident is residence of the house of the applicant. This clearly shows that the applicant party was not the aggressor but it was the informant party which was the aggressor.

8. Learned APP Shri Sonpawale submitted that the informant had gone to stop the quarrel going on between the deceased Santosh Mali and accused Balu Shinde. He submitted that when they were returning home the applicant and the other accused assaulted the deceased and the informant. He submitted that the blow was so severe that the deceased died during treatment.

9. Charge-sheet has been filed. On perusal of the charge-sheet, it is seen that the spot of the incident is shown to be in front of the house of accused Balu Shinde. It is not the case of the prosecution that the house of the informant and the applicant are adjacent to each other or near each other. Applicant party has also filed FIR against the informant party bearing FIR no.

151 of 2019. Certificates of injured Ganesh Savant and Namdeo Savant are produced on record. They show that Ganesh Savant was admitted in the hospital on 17.07.2019 and was discharged on 19.07.2019. Similarly, accused Namdeo Savant was also injured and was admitted on 17.07.20129 and was discharged on 19.07.2019. It appears that the incident happened on the spur of the moment in front of the house of accused Balu Shinde. Having regard to all these circumstances, case for bail is made out. As indicated above, charge-sheet is filed. Therefore, there is no question of tampering with the evidence. Applicant has no criminal antecedents. Similarly, there is no possibility of applicant fleeing from justice because he is a permanent resident of village Isarwadi, Tq. Paithan. Therefore, considering the pandemic crisis, I am inclined to release the applicant on bail. Hence, the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.75,000/- with one solvent surety in the like amount, in connection with Crime No.148 of 2019 under Section 302, 307, 324, 143, 147, 148, 149, 504 and 506 of the I.P.C. registered with MIDC Paithan Police Station, District Aurangabad on condition that he shall stay away from village Isarwadi, Taluka Paithan, District Aurangabad till the conclusion of the trial.

- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]