

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 300 OF 2021

Dinesh Natha Suryawanshi

Applicant

Versus

The State of Maharashtra

Respondent

Mrs. S.G. Sonawane, Advocate for the applicant.

Mr. S.W. Munde, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 21st October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. I-167/2019 registered with Bhingar Camp Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 4/25 of Indian Arms Act and under Section 37(1)(3)/135 of Mumbai Police Act.

2. Facts in brief are that on 22nd February, 2019, at about 9.30 to 10.00 pm, the brother of the informant by name Vijay Pawar

was at home. Accused Lakhan Sundar Kamble, Jigar Sundar Kamble and Kundan Sundar Kamble took Vijay Pawar to Samaj Mandir. Informant requested his brother Avinash Pawar to go to the place where these three accused had taken Vijay Pawar. Soon thereafter, Avinash came there and told him that accused Lakhan Kamble assaulted Vijay by means of a sword, accused Jigar assaulted Vijay by means of a *Katawani* and applicant Dinesh inflicted injury on the head of the Avinash and Vijay by means of a wooden log. Informant went to the place where Vijay was lying. Both Vijay and Avinash were shifted to the hospital where Vijay was declared dead. On the report of the informant, First Information Report was registered on the basis of which aforesaid offences were registered.

3. Heard Smt. Sonawane, learned counsel for the applicant and Shri Munde, learned APP for the State.

4. Learned counsel Smt. Sonawane submitted that injured Avinash has been discharged from the hospital. No serious complications have been reported in his general health condition. She further submitted that fatal blows were given by accused Lakhan and Jigar and not by the applicant. She, therefore, prayed for

allowing the application.

5. Learned APP Shri Munde submitted that applicant was present and he had assaulted both Avinash and deceased Vijay. Deceased Vijay had crush fracture owing to which he died. He, therefore, opposed the application.

6. Charge-sheet is filed. Weapon i.e. wooden log was referred to the Medical Officer for his opinion. He opined that crush fracture of fronto temporal bones cannot be caused because of a wooden log. This clearly shows that the deceased had crush fracture injury but applicant was not the author of it. Cause of death is head injury and multiple fracture of facial bones. As stated earlier, in the opinion of the Medical Officer, these injuries cannot be caused by a wooden log and it is alleged that applicant was holding a wooden log. In this view of the matter, it is evident that applicant did not cause fatal blows to the deceased. In view of this, applicant is entitled to be released on bail. Hence the following order :-

ORDER

- i) Application is allowed.

ii) Applicant be released on PR Bond of Rs.50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount in connection with Crime No. I-167/2019 registered with Bhingar Camp Police Station, Dist. Ahmednagar, for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 323, 504, 506 read with Section 34 of the Indian Penal Code, under Section 4/25 of Indian Arms Act and under Section 37(1)(3)/135 of Mumbai Police Act, on condition that he shall not pressurise the witnesses.

iii) Application is disposed of.

iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge