

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

BAIL APPLICATION NO.352 OF 2021

Hambardya @ Hambarde Nansha Kale	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr.R.G.Hange, Advocate for applicant
Mr.P.N.Kulkarni, APP for respondent

CORAM : R.G. AVACHAT, J.
DATE : MAY 27, 2021
(Vacation Court)

PER COURT :-

Heard.

2. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 19.02.2021 in connection with Crime No.0124 of 2004 registered with Ashti Police Station, Ashti, Dist. Beed, for the offences punishable under Sections 147, 148, 324, 323, 504 and 304 read with Section 149 of the Indian Penal Code.

3. Heard. Perused the papers of investigation and related papers.

4. Learned APP urged for rejection of the application on the ground of the applicant having been absconding years together.

5. The offence dates back to December, 2004. It has been alleged in the FIR that a meeting of the elders in the community was held at the house of the informant in the afternoon on 03.12.2004. After the meeting was over, Balya, Dasha, Vavhlya, Nansha, Hambardya (applicant) and Gogi came together. They abused the informant on the ground that they have not been invited for the meeting. All of them were armed with sticks. The informant's sons, Rankhamb and Ramesh, intervened. Thereupon, Vavhlya (co-accused) assaulted Ramesh on his head with an axe. Lalya assaulted Ramesh with stick, while others including applicant, assaulted them with stones. The informant and Shrimant Bhosle suffered head injuries. Meena,

wife of Shrimant, came there. Her one year old child namely, Nishchay was in her arms. Meena intervened. Thereupon, Balya attempted to assault Meena with stick blow. The stick, however, hit Nishchay. It appears that initially, crime was registered for the offences under Sections 147, 148, 324, 323 and 504 and 304 read with Section 149 of the Indian Penal Code. Lateron, Nishchay died. Section 304 of IPC, therefore, came to be invoked.

6. The allegations in the FIR show that the applicant is alleged to have assaulted the informant and her sons with stone. No particular overt-act has been attributed to him. True, the applicant was absconding years together. On completion of investigation, the charge-sheet was filed. The co-accused Dasha and Jijaba were prosecuted for the very offence. Both of them have been acquitted on the ground of the informant and the eye witness, PW – 2 Rankhamb, did not support the prosecution.

7. The applicant is behind the bars since 19.02.2021. Considering the allegations in the FIR and subsequent acquittal of the co-accused on the ground of the informant and one of the eye witnesses to have not supported the prosecution, I am inclined to grant the applicant bail.

8. Hence, the following order :-

(i) The application is allowed.

(ii) The applicant be released on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount, in connection with Crime No.0124 of 2004 registered with Ashti Police Station, Ashti, Dist. Beed, for the offences punishable under Sections 147, 148, 324, 323, 504 and 304 read with Section 149 of the Indian Penal Code.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

(iv) The applicant shall report to the concerned police station as and when required.

[R.G. AVACHAT, J.]

kbp