

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.376 OF 2021

Madhav s/o Gangaram Chikatwad = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT/S

Mr.SS Bhise,Advocate for Applicant/s;

Mr.NT Bhagat,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.

DATE : 8th April, 2021.

PER COURT :-

1. The applicant has been arrested on 1.8.2020 in connection with CR No.155/2020 registered with Dharmabad police station, District Nanded for the offences punishable under Sections 302 and 307 of IPC. He has filed the present application under Section 439 of Cr.P.C.

2. Heard Shri SS Bhise, learned Advocate for the applicant and Shri NT Bhagat, learned APP for Respondent-State.

3. At the outset, it is to be noted that investigation is complete and charge sheet was already filed on 26.10.2020, which indicates that further physical custody of the applicant is no longer required for the purpose of investigation and, therefore, what material has been collected as

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against the present applicant is required to be considered. The FIR has been lodged by one Dipak Dharaji Chikatwad, who is nephew of the present applicant. He has stated that since last 4-5 days to the FIR dated 1.8.2020; the applicant had raised dispute with father of the nephew as to why he had damaged the boundary of the fields and why he is taken Udit crop there. On 31.7.2020 at about 6.30 pm, when the informant was in the house, present applicant went in front of his house, holding scythe in his hand. The informant touched the feet of his uncle and told him to go home. At that time, father of the informant was coming out. When the mother was saying father that he should go inside the house and while the informant was looking at his father, the uncle, i.e. present applicant, pelted stone on the head of the informant, resulting in bleeding injury to him. Thereafter, the applicant rushed towards the father of the informant. Though he was tried to be intercepted by mother of the informant; yet she was pushed and then present applicant had given blows of the scythe on the stomach of the informant's father. When the mother of the informant was raised cries, neighbouring persons started gathering there and then the applicant left the spot. Father of the informant was then taken to Rural hospital at Umri. But he was then declared dead. The informant himself was given first aid and was referred to Nanded, where he was admitted. His wounds were sutured and then he was discharged.

4. From the contents of the FIR, it is clear that the informant himself is an eye-witness. So also, there are eye-witnesses in the form of mother of the informant; wife of the informant and neighbours, who had arrived at the last moment. If we consider the post-mortem report, there were nine injuries on the surface. There are four stab injuries and one is incised wound; four are abrasions. The stab injuries are on the stomach or around the stomach. The probable cause of death is "hemorrhage and shock due to stab injuries to abdomen". The discovery of the weapon is at the instance of the present applicant. There is no much delay that has been caused in lodging the report and, therefore, with this material, the present application is not a fit case where the applicant should be released on bail. There appears to be prima facie evidence against him and, therefore, the Bail Application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV